



STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

2562 EXECUTIVE CENTER CIRCLE, EAST
MONTGOMERY BUILDING
TALLAHASSEE, FLORIDA 32301

REUBIN O'D. ASKEW
GOVERNOR

JOSEPH W. LANDERS, JR.
SECRETARY

September 1, 1977

Mr. John A. Little
Acting Regional Administrator
U. S. Environmental Protection
Agency
Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30308

Dear Mr. Little:

Pursuant to the provisions of Section 1413 of the Safe Drinking Water Act (88 Stat. 1661; 42 U.S.C. 300 f et seq) and 40 CFR 142 (41 FR 918, January 20, 1976), the State of Florida hereby submits its application for primary enforcement responsibility for public water supply systems in the state.

The attached application lists the specific requirements for primary enforcement responsibility set forth under 40 CFR 142, and documents that each of those requirements has been satisfied. As you can note, the State of Florida is fully capable of carrying out all the responsibilities for the public water supply system supervision program and assume primary enforcement authority immediately.

We would appreciate your early review and approval of our application. Your staff should refer any questions they may have concerning the application to John Bottcher, Director, Division of Environmental Programs. Thank you for your office's continued cooperation and assistance with this important program.

Sincerely,

Victoria J. Tschinkel

Victoria J. Tschinkel
Assistant Secretary

VJT/bs

Attachment

cc: John C. Bottcher
Ralph H. Baker, Jr.
Glenn M. Dykes, Jr.
Frank Andrews



STATE OF FLORIDA
APPLICATION TO THE
ENVIRONMENTAL PROTECTION AGENCY
FOR
PRIMARY ENFORCEMENT RESPONSIBILITY
FOR
PUBLIC WATER SYSTEMS IN THE STATE
(Section 1413 Safe Drinking Water Act,
Public Law 93-523)

September 1, 1977

Joseph W. Landers, Jr.
Secretary
Department of Environmental Regulation
2562 Executive Center Circle, East
Tallahassee, Florida 32301



CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
I	Florida's Primary Drinking Water Regulations	1
II	Enforcement	2
	(1) Inventory	2
	(2) Sanitary Survey	2
	(3) Laboratory Certification	3
	(4) Laboratory Availability	5
	(5) Plan Review	6
	(6) Procedures for Administrative or Judicial Action	7
	(a) Administrative Proceedings	7
	(b) Injunctive Relief	7
	(c) Penalties	8
	(d) Right of Entry	8
	(e) Imminent Hazards	8
	(7) State Reports and Records	9
	(8) Variances and Exemptions	10
III	Public Water Systems Records and Reports	10
	(1) Record Maintenance	10
	(2) Reporting Requirements	11
IV	Public Notification	11
V	Plans for Provision of Drinking Water Under Emergencies	12
VI	State Public Water System Supervision Program Plan	12



STATE OF FLORIDA'S COMPLIANCE WITH 40 CFR Part 142

PRIMARY ENFORCEMENT RESPONSIBILITY REQUIREMENTS

I. Florida's Primary Drinking Water Regulations

Attached (Exhibit A) is Florida's primary drinking water regulations (Chapter 17ER77, Florida Administrative Code) that have been adopted by Florida's Environmental Protection Commission on August 11, 1977, on an emergency basis.

These regulations are as stringent as or more stringent than those federal regulations promulgated in 40 CFR Part 141 ("National Interim Primary Drinking Water Regulations"). The following is a comparison of the federal and state regulations in those cases when the latter are more stringent.

(1) Microbiological Quality of Raw Water Samples (Community and Non-Community Systems)

Although 40 CFR 141.21 does not mandate monitoring of raw water quality, Section 17-22.05(1)(d)(1), FAC, requires that "a minimum of one representative raw water sample shall be taken and analyzed per month to determine the microbiological quality of the raw water before treatment."

(2) Microbiological Monitoring Frequency for Community and Non-Community Systems

Whereas the federal regulations [40 CFR 141.21(b)] require a minimum of one sample per month for public

water systems serving a population of between 25 to 1000, the state regulations [Section 17-22.05(1)(d)(2)] require a minimum of two samples per month for such systems.

II. Procedures for Enforcement of Florida's Primary Drinking Water Regulations

(1) Maintenance of a Current Inventory of Public Water Systems

The state has a current inventory of community systems, which number 2728 to date. Through a contract with the Department of Health and Rehabilitative Services, the inventory of non-community systems is being updated and, so far, we have accounted for 3813 of such systems. This inventory update will be completed by December 1977.

Meanwhile, the state is completing EPA Form 7500-11 on all new systems and modification or expansion of existing systems that are approved by it. These forms are being forwarded periodically to the EPA for processing. It is expected that the state program will have an automated data processing system by December 31, 1977.

(2) Program for Conducting Sanitary Surveys

Based on the available manpower, it is estimated that the state will be able to conduct sanitary surveys on at least 500 public water systems during the federal fiscal year 1978. The pace of this program will be

accelerated in the coming years such that each community system will be surveyed at least once a year. The priorities for sanitary surveys will be assigned by the District engineers based upon the operation history of the systems and the extent of their non-compliance with the state primary drinking water regulations. Consideration will be given to those systems that derive their supply from surface sources, those with known problems of water quality and those which rely on extensive treatment of groundwaters to produce water meeting potable water quality standards.

(3) Laboratory Approval or Certification Program

Section 403.863(2), Florida Statutes, (Florida Safe Drinking Water Act, Exhibit B) authorizes the Department of Health and Rehabilitative Services to administer the state laboratory certification program. Further, Section 403.863(4) prohibits any laboratory in the state to perform analysis required by the state's drinking water regulations without having received certification under the state certification program.

Approval or certification of private, commercial laboratories is not expected to be a major task at this time since the Florida Safe Drinking Water Act requires the Department of Health and Rehabilitative Services to "establish and maintain laboratories for the conducting

of radiological, microbiological, and chemical analysis of water samples from public water systems which are submitted to such laboratories for analysis" [Section 403.862(1)(a), Florida Statutes] and since all required samples will be submitted to the DHRS laboratories by the public water systems. The only exceptions are those large private utilities or local governments that have laboratory facilities to perform routine microbiological and turbidity analysis.

The department and the DHRS have jointly developed a draft rule for the evaluation and certification of laboratories seeking to perform the analyses required by the drinking water regulations. A copy of the draft rule is attached (Exhibit C). The Florida legislature has mandated [Section 403.863(1), F.S.] that the laboratory certification program be jointly developed by the department and the DHRS within 120 days of the effective date of the Florida Safe Drinking Water Act.

(a) Interim Approval of Principal State Laboratories

In his letter of May 25, 1977, (Exhibit D), Mr. Jack E. Ravan, Administrator of EPA's Region IV advised the state that the following principal laboratories have been given interim approval by the EPA:

DHRS Laboratory, Jacksonville, Florida:
Chemistry and Microbiology

DHRS Radiological Health Laboratory, Orlando,
Florida:
Radiochemistry

Further, EPA approved the designation of the
following as the responsible state laboratory
officers:

Chemistry:	Dr. Ming Chan, DHRS
Microbiology:	Mr. Augustus Ruser, DHRS
Radiochemistry:	Mr. Benjamin Prewitt, DHRS

(b) Approval or Certification of Other Laboratories

The principal state laboratory in Jacksonville, Florida, has an ongoing program for evaluating and approving DHRS' regional laboratories in Miami, Orlando, Pensacola, Tallahassee, and Tampa, county health department laboratories, and water treatment plant laboratories of private utilities and local governments for microbiological sampling and analysis. Attached (Exhibit E) is a report dated July 27-28, 1976, of the survey made by Mr. Edwin E. Goldreich, consulting bacteriologist with EPA's Cincinnati Laboratory, which attests to the capability and status of this program.

(4) Availability and Identification of Certified State Laboratories

In addition to the principal state laboratories identified in the previous section, attached (Exhibit F) is a

complete list of state (DHRS), city/county, utility and local health department laboratories that have been approved for performing microbiological and turbidity analysis currently required under the state primary drinking water regulations.

All these laboratory facilities are currently performing the required analyses. The state (DHRS) regional laboratories are being upgraded to perform the required number of chemical and radiological analysis in accordance with the schedule established by the state regulations.

(5) Review of Design and Construction of Public Water System Facilities

Activities related to this program element are as follows:

- (a) Review and approval of engineering plans and specifications for, and permitting of construction of new or expansion of existing collection, treatment, storage and distribution facilities (Section 17-2.08, FAC).
- (b) Permitting of siting and construction of water supply wells (Section 17-22.08, FAC).
- (c) Field inspection of facilities approved or permitted as above.

A total of 13.31 man years will be spent to perform these functions. This figure does not include the contribution of effort by the DHRS through the sanitary

engineering staff of local health departments. The workload is estimated to consist of approval of 900 plans for distribution systems, 400 plans for treatment plant modification/expansion or new systems, and approximately 500 public water supply well permits.

(6) State Statutory and Regulatory Provisions, and Procedures for Administrative or Judicial Action

Exhibit B is the "Florida Safe Drinking Water Act" passed by the 1977 Florida Legislature. Also, attached is a copy of "Emergency Rules of the Department of Environmental Regulation - Chapter 17ER77 -Public Water Systems" (Exhibit A) adopted by the Florida Environmental Protection Commission on August 11, 1977.

Sections 403.859 and 403.860 list acts prohibited under the Florida Safe Drinking Water Act, and prescribe penalties for violation of the provisions of the Act. The administrative and judicial remedies available to the state are as follows:

(a) Administrative Proceedings [Section 403.860(3)], Florida Statutes

- Serve written Notice of Violation Alleged
- Include Order for Corrective Action, if necessary
- Provide Administrative Hearing, if requested
- Issue Final Order

(b) Injunctive Relief [Section 403.860(4)], F.S.

The Department is authorized to institute civil action for injunctive relief to prevent violation

of an order, rule or regulation issued pursuant to the Florida Safe Drinking Water Act.

(c) Penalties for Violations [Section 403.860(1)&(2)]

Fines upto \$5000 may be imposed for each day in which a violation of the provisions of the Florida Safe Drinking Water Act occurs or failure to comply with any order issued by the Department pursuant to the Act continues.

(d) Right of Entry

Section 403.858, Florida Statutes, (Florida Safe Drinking Water Act) authorizes the representative of the department of the DHRS to "enter, take water samples from, and inspect any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a public water system is located or is being constructed or installed, at any reasonable time, for the purpose of ascertaining the state of compliance with the law or with rules or orders of the department."

(e) Imminent Hazards

Section 403.855, F.S., authorizes the department, upon receipt of information that a contaminant which is present or is likely to enter a public water system may present an imminent and substantial

danger to the public health, to take such actions as it may deem necessary to protect the public health." "Actions which the department may take include, but are not limited to:

- (i) Adopting emergency rules pursuant to Section 120.54(9), F.S., (Exhibit G).
- (ii) Issuing such corrective orders as may be necessary to protect the health of persons who are or may be users of such systems, including travelers. An order issued by the department under this section shall become effective upon service of such order on the alleged violator notwithstanding provisions of Section 403.860(4).
- (iii) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction."

(7) State Will Make Reports to EPA and Keep Records

The state affirms that it will maintain records of (1) microbiological and turbidity analyses; (2) inventory information; (3) sanitary surveys; (4) approvals/permitting of construction/modification/expansion; and (5) enforcement actions relating to all public water systems in the state, in accordance with the provisions of Section 40 CFR 142.14.

(8) State Program for Issuance of Variances and Exemptions
From Primary Drinking Water Regulations

Florida's statutory and regulatory provisions (Exhibit A & B) are not less stringent than the comparable federal statutes and regulations (Sections 1415 and 1416 of the Safe Drinking Water Act, PL 93-523).

Section 17-22.09, FAC, (Exhibit A) sets forth in detail the requirements for making an application for variance/exemption and the criteria for approval of the application.

The state will either grant or deny a variance, exemption or release within the time prescribed by Chapter 120, Florida Statutes (Exhibit G).

III. Authority to Require Public Water Systems to Keep Records

(1) Record Maintenance

(a) Plant Operation and Maintenance Records

Section 17-22.07(3)(d), FAC, prohibits the water plant operator from introducing new sources of water supply, altering or discontinuing treatment process without prior written approval of the department. It also requires the operator to notify the department by wire or telephone of any breakdown of treatment process, abnormal taste or odor associated with the water supply or any suspicious circumstances. Further, a site main-

tenance log of major water plant equipment is to be maintained and available at all times in all community water systems.

(b) Microbiological and Chemical Analyses and Other Records

Section 17-22.11(1), FAC, requires record maintenance in accordance with 40 CFR 141.33. Since the state requirements are the same as those prescribed in Section 40 CFR 141.33, they are not repeated here.

(2) Reporting Requirements

Under Section 17-22.11(2), FAC, public water systems are required to report, within 90 days, to the department of results of tests, measurements, or analyses made pursuant to the state drinking water regulations. Also they are required to report, within 48 hours, the failure to comply with any drinking water regulations. These requirements are the same as set forth in 40 CFR 141.31.

IV. Authority to Require Public Notification

The authority to require public water systems to give public notice of violations of state primary drinking water regulations is clearly spelled out in Section 403.857, Florida Statutes, (Florida's Safe Drinking Water Act, Exhibit B) and Section 17-22.12, FAC, Exhibit A). These public notification requirements are the same as those set forth in 40 CFR 141.32.

V. Florida's Plan For Provision of Drinking Water Under Emergency Conditions

Exhibit H is the draft copy of a detailed plan for provision of safe drinking water under emergency conditions and for planning to cope with these contingencies.

VI. Florida's Public Water System Supervision Program Plan

Attached (Exhibit I) is the work plan of the state program for the federal fiscal year 1978. This plan covers the state strategy and the breakdown of costs and manpower applicable to each element of the program.

EMERGENCY RULES
OF THE
DEPARTMENT OF ENVIRONMENTAL REGULATION
CHAPTER 17ER77
PUBLIC WATER SYSTEMS

I. General

- 17ER77-1 - Authority, Intent & Policy
- 17ER77-2 - Coverage
- 17ER77-3 - Definitions

II. Quality Standards, Sampling, Analyses

General

- 17ER77-4 - Quality Standards (maximum contaminant levels and treatment techniques)

- (1) Primary Drinking Water Regulations - maximum contaminant levels
 - (a) Inorganics
 - (b) Organics
 - (c) Turbidity
 - (d) Microbiological
 - (e) Radionuclides
- (2) Secondary Drinking Water Regulations - maximum contaminant levels
- (3) Other Chemical Contaminants
- (4) Relationship B/W 17-22.04 & 17-22.05, Florida Administrative Code

- 17ER77-5 - Sampling and Analytical Methods

- (1) Sampling and Analytical Requirements for Primary Drinking Water Regulations
 - (a) Inorganics
 - (b) Organics
 - (c) Turbidity

VI. Public Notification, Imminent Hazards

General

17ER77-12 - Public Notifications

17ER77-13 - Imminent Hazards

(d) Microbiological

(e) Radionuclides

(2) Sampling and Analytical Requirements for
Secondary Drinking Water Regulations

(3) Alternative Analytical Techniques

(4) Approved Laboratories

(5) Monitoring of Consecutive Public Water
Systems

III. Construction, Operation and Maintenance

General -

17ER77-6 - Construction

(1) Plant Site Location

(2) Wells - (a) number, (b) location, (c) con-
struction, (d) clearing, (e) drilling samples,
(f) abandonment

(3) Treatment Plant, Storage and Distribution
Facilities

17ER77-7 - Operation and Maintenance

(1) Cleaning and Disinfection

(2) Operation and Equipment

(3) Cross Connection Control

(4) Reporting

IV. Permitting, Variance, Exemptions

17ER77-8 - Permitting

(1) Water Supply Well Drilling Permit

(2) Water Plant and Distribution System Con-
struction and Alteration Permits

17ER77-9 - Variances, Exemptions and Releases

V. Surveillance, Records and Reporting

General

17ER77-10 - Surveillance

17ER77-11 - Records and Reporting

PART I -- GENERAL

17ER77-1 AUTHORITY, INTENT AND POLICY

To assure that public water systems supply drinking water which meets minimum requirements, the Federal government enacted PL 93-523, the "Safe Drinking Water Act". The scheme of PL 93-523 was to impart primary responsibility for public water system programs to those states capable of and actually implementing an acceptable public water system program. To this end the legislature of the State of Florida enacted the "Florida Safe Drinking Water Act", Sections 403.850-403.864, Florida Statutes.

These regulations are promulgated to implement the requirements of the Florida Safe Drinking Water Act as well as acquire primacy for the State of Florida under the Federal Act. These regulations adopt the national primary and secondary drinking water regulations of the federal government where possible and otherwise create additional regulations fulfilling state and federal requirements.

Specific Authority: 403.861(1)(B)
Law Implemented: 403.851

17ER77-2 COVERAGE

The Safe Drinking Water Act and the Florida Safe Drinking Water Act exclude certain public water systems from coverage by those acts. The drinking water regulations contained in Chapter 17-22, Florida Administrative Code, apply to all public water systems except those which meet all of the following criteria, to wit:

Consists of distribution and storage facilities only and does not have any collection or treatment facilities;
Obtains all of its water from, but is not owned or

operated by, a public water system to which such regulations apply;

Does not sell water to any person; and

Is not a carrier which conveys passengers in

interstate commerce.

Specific Authority: 403.861(8)
Law Implemented: 403.851, 403.853

NOTE: Section 381.261, F.S., gives general supervision and control over all private water systems and public water systems not covered or included in the Florida Safe Drinking Water Act to the Department of Health and Rehabilitative Services (DHRS). The Department interprets this as meaning that DHRS is given supervision and control of all water systems which meet all of the four exception criteria and which also have at least 15 service connections or which regularly serve at least 25 individuals daily at least 60 days out of the year. The Department also interprets Section 381.261, F.S., as meaning that DHRS is given supervision and control of all water systems that have less than 15 service connections or which regularly serve less than 25 individuals daily at least 60 days out of the year, or at least 25 individuals daily less than 60 days out of the year.

17ER77-3 DEFINITIONS

For the purposes of this rule the following words, phrases or terms shall have the following meaning:

(1) "CONTAMINANT" means any physical, chemical, biological or radiological substance or matter in water.

(2) "MAXIMUM CONTAMINANT LEVEL" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. Except for the delivery

point for turbidity which is delivered to the user at the point of entry to the distribution portion from either the storage or treatment portion of a public water system, water is delivered to a user of a public water system which is a community water system when the water enters the piping which is under the control of the user, and is delivered to a user of a public water system which is a non-community water system upon discharge from a free flowing outlet.

(3) "PERSON" means an individual, public or private corporation, company, association, partnership, municipality, agency of the state, district, Federal agency, or any other legal entity, or its legal representative, agent, or assigns.

(4) "PUBLIC WATER SYSTEM" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals daily at least 60 days out of the year. Such term includes 1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, or 2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a "community water system" or a "non-community water system".

(5) "COMMUNITY WATER SYSTEM" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(6) "NON-COMMUNITY WATER SYSTEM" means a public water system for provision to the public of piped water for human

consumption that serves at least 25 individuals daily at least 60 days out of the year but that is not a community water system.

NOTE: Community water systems serve at least 25 year-round residents. Non-community water systems serve at least 25 individuals daily. The difference between the two is that the former addresses inhabitants whereas the latter addresses transients or persons who otherwise do not inhabit a building, etc., i.e., non-residents.

(7) "SANITARY SURVEY" means an onsite review of the water source facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation, and maintenance for producing and distributing safe drinking water.

(8) "STANDARD BACTERIA SAMPLE" means the aliquot of raw or finished drinking water that is examined for the presence of coliform bacteria, and shall consist of: a) For the bacteriological fermentation tube test, five (5) standard portions of either: 1. Ten milliliters (10 ml); 2. One hundred milliliters (100 ml); b) For the membrane filter technique, not less than one hundred milliliters (100 ml).

(9) "DEPARTMENT" means the Department of Environmental Regulation and where the context is appropriate its employees or the employees of DHRS or the County Health Departments.

(10) "SUPPLIER OF WATER" means any person who owns or operates a public water system.

(11) "POTABLE WATER" means water satisfactory for drinking, culinary and domestic purposes meeting the quality standards of the Department of Environmental Regulation.

(12) "ADEQUATE PROTECTION BY TREATMENT" means any one or any combination of the controlled processes of coagulation, sedimentation, absorption, filtration, or other processes in addition to disinfection which produce a water consistently meeting the requirements of the Standards in Section 17-22.04 including processes which are appropriate to the source of supply; works which are of adequate capacity to meet maximum demands without creating health hazards, and which are located, designed and constructed to eliminate or prevent pollution; and conscientious operation by well-trained and competent personnel who meet the requirements of Chapter 17-16, Florida Administrative Code.

(13) "THE COLIFORM GROUP" includes all organisms considered in the coliform group as set forth in "Standard Methods for the Examination of Water and Waste Water," Current Edition, prepared and published jointly by the American Public Health Association, American Water Works Association, and Water Pollution Control Federation.

(14) "HEALTH HAZARDS" means any conditions, devices, or practices in a water supply system or its operation which creates or may create an imminent and substantial danger to the health and well-being of the water consumer.

(15) "CROSS-CONNECTION" means any physical arrangement whereby a public water supply is connected, directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as the result of backflow. By-pass

arrangements, jumper connections, removable sections, swivel or changeable devices and other temporary or permanent devices through which or because of which backflow could occur are considered to be cross connections.

(16) "WELL" means any excavation that is drilled, cored, bored, washed, driven, dug, jettad, or otherwise constructed when the intended use of such excavation is to conduct ground water from a source bed to the surface, by pumping or natural flow, when ground water from such excavation is used or is to be used for a public water supply system.

(17) "SOURCE BED" means an underground water-bearing formation sufficiently permeable to yield quantities of water to wells.

(18) "CASING" means the tubular material utilized to shut off or exclude a stratum or strata other than the source bed and conduct water from only the source bed to the surface.

(19) "ANNULAR SPACE" means the space between two casings or between the outer casing and the wall of the well hole.

(20) "INDIVIDUAL WATER SUPPLY" means a source of water, and pump and piping if any, located on the premises and which serves to supply only a single home of a family.

(21) "DOSE EQUIVALENT" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body, specified by the International Commission on Radiological Units and Measurements. (ICRU).

(22) "REM" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

(23) "PICOCURIE (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformation per minute.

(24) "GROSS ALPHA PARTICLE ACTIVITY" means the total radioactivity due to alpha particle emission as inferred from measurements on a sample.

(25) "MAN-MADE BETA PARTICLE AND PHOTON EMITTERS" means all radionuclides emitting beta particles and/or photons listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," NBS Handbook 69, except the daughter products of thorium 232, uranium-235 and uranium-238.

(26) "GROSS BETA PARTICLE ACTIVITY" means the total radioactivity due to beta particle emission as inferred from measurements on a sample.

(27) "VARIANCE" means sanction from the Department affording a public water system an extended time for compliance with an MCL contained in a primary drinking water regulation. A variance pertains to non-compliance with an MCL due to the inability to meet the MCL even when a treatment method generally available at reasonable cost to a larger system has been applied to the raw water source.

(28) "EXEMPTION" means sanction from the Department affording a public water system existing as of the effective date of these rules an extended time for compliance with an MCL contained in a primary drinking water regulation. An

exemption pertains to non-compliance with an MCL due to inability for reasons other than that instance where application of a treatment method generally available fails to adequately treat the raw water source.

(29) "RELEASE" means sanction from the Department affording a community water system, non-compliance with secondary drinking water regulation MCL(s).

Specific Authority: 403.861 (8)
Law Implemented: 403.853 to 403.863

PART II - QUALITY STANDARDS, ANALYTICAL METHODS, SAMPLING

General - The ultimate concern of a public drinking water program is the potability of the water when the water reaches the citizens. The following regulations establish the maximum contaminant levels or the treatment technique as well as sampling and analysis requirements for the water within public water systems.

17-22.04 - QUALITY STANDARDS - MAXIMUM CONTAMINANT LEVELS OR TREATMENT TECHNIQUES

(1) PRIMARY DRINKING WATER REGULATIONS - maximum contaminant levels.

(a) Inorganics - The following are maximum contaminant levels applicable to community and non-community water supplies.

<u>Contaminant</u>	<u>Level, milligrams per liter</u>
Arsenic	0.05
Barium	1.
Cadmium	0.010
Chromium	0.05
Lead	0.05
Mercury	0.002

Nitrate (as N)	10.
Selenium	0.01
Silver	0.05

When the annual average of the maximum daily air temperatures for the location in which the community water system is situated is the following, the maximum contaminant levels for fluoride are:

Temperature		Level, milligrams
<u>Degrees Fahrenheit</u>	<u>Degrees Celsius</u>	<u>per liter</u>
53.7 and below	12.0 and below	2.4
53.8 to 58.3	12.1 to 14.6	2.2
58.4 to 63.8	14.7 to 17.6	2.0
63.9 to 70.6	17.7 to 21.4	1.8
70.7 to 79.2	21.5 to 26.2	1.6
79.3 to 90.5	26.3 to 32.5	1.4

(b) Organics - The following are maximum contaminant levels applicable to community water supplies.

<u>Contaminant</u>	<u>Level, milligrams</u> <u>per liter</u>
1) Chlorinated hydrocarbons:	
Endrin (1,2,3,4,10, 10-hexachloro- 6, 7-epoxy-1,4, 4a,5,6,7,8,8a-octa- hydro-1,4-endo, endo 5-8 - di-methano naphthalene).	0.0002
Lindane (1,2,3,4,5,6,-hexachloro- cyclohexane, gamma isomer).	0.004
Methoxychlor (1,1,1-Trichloro-2, 2 - bis [p-methoxyphenyl] ethane).	0.1
Toxaphene (C ₁₀ H ₁₀ Cl ₈ - Technical chlorinated camphene, 67-69 percent	0.005

chlorine).

- 2) Chlorophenoxys:
- 2,4 - D, (2,4-Dichlorophenoxyacetic acid). 0.1
- 2,4,5-TP Silvex (2,4,5-Trichloro-
phenoxypropionic acid). 0.01

(c) Turbidity - The maximum contaminant levels for turbidity are applicable to both community water systems and non-community water systems using surface water sources in whole or in part. The maximum contaminant levels for turbidity in drinking water, measured at a representative entry point(s) to this distribution system are:

1) One turbidity unit, as determined by a monthly average except that five or fewer turbidity units may be allowed if the supplier of water can demonstrate to the Department that the higher turbidity does not do any of the following:

- a) Interfere with disinfections;
- b) Prevent maintenance of an effective disinfectant agent throughout the distribution system; or
- c) Interfere with microbiological determinations.

2) Five turbidity units based on an average for two consecutive days.

(d) Microbiological - The maximum contaminant levels for coliform bacteria, applicable to community water systems and non-community water systems, are as follows:

1) When the membrane filter technique is used, the number of coliform bacteria shall not exceed any of the following:

- a) One per 100 milliliters as the arithmetic mean of all samples examined per month;
- b) Four per 100 milliliters in more than one sample when less than 20 are examined per month; or
- c) Four per 100 milliliters in more than five percent of the samples when 20 or more are examined per month.

2) When the fermentation tube method and 10 milliliter standard portions are used, coliform bacteria shall not be present in any of the following:

- a) more than 10 percent of the portions in any month;
- b) three or more portions in more than one sample when less than 20 samples are examined per month;
- c) three or more portions in more than five percent of the samples when 20 or more samples are examined per month.

3) When the fermentation tube method and 100 milliliter standard portions are used, coliform bacteria shall not be present in any of the following:

- a) more than 60 percent of the portions in any month;
- b) five portions in more than one sample when less than five samples are examined per month; or
- c) five portions in more than 20 percent of the samples when five or more samples are examined per month.

4) For community or non-community systems that are required to sample at a rate of less than 4 per

month, compliance shall be based upon sampling during a 3 month period, taken on a monthly basis in accordance with 17-22.05(1) (d) (2).

(e) Radionuclides - The following are maximum contaminant levels applicable to community water systems:

1) Radium-226, radium-228, and gross alpha particle radioactivity

a) Combined radium-226 and radium-228 --- 5 pCi/l.

b) Gross alpha particle activity (including radium-226 but excluding radon and uranium) -- 15 pCi/l.

2) Beta particle and photon radioactivity from man-made radionuclides

a) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

b) Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing 4 mrem total body or organ dose equivalents shall be calculated on the basis of a 2 liter per day drinking water intake using the 168 hour data listed in "Maximum Permissible Body Burden and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," NBS Handbook 69 as amended August 1963, U.S. Department of Commerce. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

Table A - Average Annual Concentration Assumed to Produce a Total Body Organ Dose of 4mrem/year.

Radionuclide	Critical organ	pCi per liter
Tritium	Total body	20,000
Strontium-90	Bone marrow	8

(2) SECONDARY DRINKING WATER REGULATIONS - maximum contaminant levels - Except when a release has been obtained the maximum contaminant levels of the following shall not be exceeded in community water systems.

Contaminant	Level
Chloride	250 mg/l
Color	15 Color Units
Copper	1 mg/l
Stability	Non-corrosive and non-scale forming
Foaming Agent	0.5 mg/l
Hydrogen Sulfide	0.05 mg/l
Iron	0.3 mg/l
Manganese	0.05 mg/l
Odor	3 Threshold Odor Number
Sodium	250 Mg/l
Sulfate	250 mg/l
TDS	500 mg/l
Zinc	5 mg/l

(3) OTHER CONTAMINANTS WITHOUT A STANDARD - It is prohibited to introduce into a public water system any contaminant which creates or has the potential to create an imminent and substantial danger to the public.

(4) RELATIONSHIP BETWEEN 17-22.04 & 17-22.05, FLORIDA ADMINISTRATIVE CODE - All contaminants having an MCL estab-

lished by Section 17-22.04, Florida Administrative Code, are required to be sampled and analyzed as established by Section 17-22.05, Florida Administrative Code.

Specific Authority: 403.861(8)
Law Implemented: 403.852(12)(13); 403.853(1); 403.855

17-22.05 - SAMPLING AND ANALYTICAL METHODS

(1) SAMPLING AND ANALYTICAL REQUIREMENTS FOR PRIMARY CONTAMINANTS

(a) Inorganic chemical sampling analytical requirements.

1) Analyses for the purpose of determining compliance with 17-22.04(1)(a) are required as follows:

a) Analyses for all community water systems utilizing surface water sources shall be completed by June 24, 1978. These analyses shall be repeated at yearly intervals.

b) Analyses for all community water systems utilizing only ground water sources, shall be completed by June 24, 1979. These analyses shall be repeated at three-year intervals.

c) For non-community water systems, whether supplied by surface or ground water sources, analyses shall be completed by June 24, 1979. These analyses shall be repeated at three-year intervals.

2) If the result of an analysis made pursuant to paragraph (1) indicates that the level of any contaminant listed in 17-22.04(1)(a) exceeds the maximum contaminant level, the supplier of water shall report said fact to the Department within 7 days and initiate and complete

three additional analyses for the suspect contaminant at the same sampling point within one month.

3) When the average of four analyses made pursuant to paragraph (a) 1) & 2) of this Section, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall notify the Department pursuant to 17-22.11(2) and give notice to the public pursuant to 17-22.12. Monitoring after public notification shall be at a frequency designated by the Department and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

4) The provisions of paragraphs (a) 2) and 3) of this section notwithstanding, compliance with the maximum contaminant level for nitrate shall be determined on the basis of the mean of two analyses. When a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within 24 hours, and if the mean of the two analyses exceeds the maximum contaminant level, the supplier of water shall report his findings to the Department pursuant to 17-22.11(2) and shall notify the public pursuant to 17-22.12.

5) For the initial analyses required by paragraph (a) 1) 2) or 3) of this section, data for surface waters acquired within one year prior to June 24, 1977 and data for ground waters acquired within 3 years prior to June 24, 1977 of this part may be substituted at the discretion of the Department.

6) Analyses conducted to determine compliance with 17-22.04(1)(a) shall be made in accordance with the following methods:

a) Arsenic - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 95-96, Environmental Protection Agency, Washington, D.C. 20460, 1974.

b) Barium - Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 97-98, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

c) Cadmium - Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 105-106, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

d) Chromium - Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 105-106, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

e) Lead - Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 112-113, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

f) Mercury - Flameless Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 118-126, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

g) Nitrate - Brucine Colorimetric Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or Cadmium Reduction Method, "Methods for Chemical Analysis of Water and Wastes," pp. 201-206, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

h) Selenium - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," p. 145, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

i) Silver - Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," p. 146, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

j) Fluoride - Electrode Method, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 65-67, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974, or Colorimetric Method with Preliminary Distillation, "Standard Methods for the Examination of Water and Wastewater," Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 59-60, Environmental

Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(b) Organic chemical sampling and analytical requirements.

1) An analysis of substances for the purpose of determining compliance with 17-22.04(1)(b) shall be made as follows:

a) For all community water systems utilizing surface water sources, analyses shall be completed by June 24, 1978. Samples analyzed shall be collected during the period of the year designated by the Department at the period when contamination by pesticides is most likely to occur. These analyses shall be repeated at one year intervals thereafter.

b) For community water systems utilizing only ground water sources, analyses shall be completed by June 24, 1979 and repeated at three year intervals thereafter.

2) If the result of an analysis made pursuant to paragraph (b) 1) of this section indicates that the level of any contaminant listed in 17-22.04(1)(b) exceeds the maximum contaminant level, the supplier of water shall report said fact to the Department within 7 days and initiate and complete three additional analyses for the suspect contaminant within one month.

3) When the average of four analyses made pursuant to paragraph (b) 1) and 2) of this section, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall

report to the Department pursuant to 17-22.11(2) and give notice to the public pursuant to 17-22.12. Monitoring after public notification shall be at a frequency designated by the Department and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

4) For the initial analysis required by paragraph (b) 1) of this section, data for surface water acquired by June 24, 1977 and data for ground water acquired within three years prior to June 24, 1977 may be substituted at the discretion of the Department.

5) Analyses made to determine compliance with 17-22.04 (1)(b) 1) shall be made in accordance with "Methods for Organochlorine Pesticides in Industrial Effluents," MDQARL, Environmental Protection Agency, Cincinnati, Ohio, November 28, 1973.

6) Analyses made to determine compliance with 17-22.04(1)(b) 2) shall be conducted in accordance with "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents," MDQARL, Environmental Protection Agency, Cincinnati, Ohio, November 28, 1973.

(c) Turbidity sampling and analytical requirements.

1) Samples shall be taken by suppliers of water for both community water systems and non-community water systems that obtain raw water from a surface source at a representative entry point(s) to the water distribution system at least once per day, for the purpose of making turbidity measurements to determine compliance with

17-22.04(1)(c). The measurement shall be made by the Nephelometric Method in accordance with the recommendations set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, Current Edition, or "Methods for Chemical Analysis of Water and Wastes," pp.295-298, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

2) If the result of a turbidity analysis indicates that the maximum allowable limit has been exceeded, the sampling and measurement shall be confirmed by resampling as soon as practicable and preferably within one hour. If the repeat sample confirms that the maximum allowable limit has been exceeded, the supplier of water shall report to the Department within 48 hours. The repeat sample shall be the sample used for the purpose of calculating the monthly average. If the monthly average of the daily samples exceeds the maximum allowable limit, or if the average of two samples taken on consecutive days exceeds 5 TU, The supplier of water shall report to the Department and notify the public as directed in 17-22.11(2) and 17-22.12.

3) Sampling for non-community water systems shall begin by June 24, 1979. Sampling for community water systems should have begun on June 24, 1977 per PL 93-523.

4) The requirements of this section (c) shall apply only to public water systems which use water obtained in whole or in part from surface sources.

(d) Microbiological - Monitoring and Analytical Requirements.

1) Suppliers of water for community water

systems and non-community water systems shall analyze for coliform bacteria for the purpose of determining compliance with 17-22.04(1)(d). Analyses shall be conducted in accordance with the analytical recommendation set forth in "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, Current Edition, except that a standard sample size shall be employed. The standard sample used in the membrane filter procedure shall be 100 milliliters. The standard sample used in the 5 tube most probable number (MPN) procedure (fermentation tube method) shall be 5 times the standard portion. The standard portion is either 10 milliliters or 100 milliliters as described in 17-22.04(1)(d) 2) and 3). The samples shall be taken at points which are representative of the drinking water delivered to the user. Additionally a minimum of one representative raw water sample shall be taken and analyzed per month to determine the microbiological quality of the raw water before treatment.

2) The supplier of water for a community and non-community water system shall take coliform density samples at regular time intervals, and in number proportionate to the population served by the system. In no event shall the frequency be less than as set forth below:

Population served:	Minimum number of samples per month
25 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 9,400	10
9,401 to 10,300	11
10,301 to 11,100	12
11,101 to 12,000	13
12,001 to 12,900	14
12,901 to 13,700	15
13,701 to 14,600	16
14,601 to 15,500	17
15,501 to 16,300	18
16,301 to 17,200	19
17,201 to 18,100	20
18,101 to 18,900	21
18,901 to 19,800	22
19,801 to 20,700	23
20,701 to 21,500	24
21,501 to 22,300	25
22,301 to 23,200	26
23,201 to 24,000	27
24,001 to 24,900	28
24,901 to 25,000	29

25,001 to 28,000	30
28,001 to 33,000	35
33,001 to 37,000	40
37,001 to 41,000	45
41,001 to 46,000	50
46,001 to 50,000	55
50,001 to 54,000	60
54,001 to 59,000	65
59,001 to 64,000	70
64,001 to 70,000	75
70,001 to 76,000	80
76,001 to 83,000	85
83,001 to 90,000	90
90,001 to 96,000	95
96,001 to 111,000	100
111,001 to 130,000	110
130,001 to 160,000	120
160,001 to 190,000	130
190,001 to 220,000	140
220,001 to 250,000	150
250,001 to 290,000	160
290,001 to 320,000	170
320,001 to 360,000	180
360,001 to 410,000	190
410,001 to 450,000	200
450,001 to 500,000	210
500,001 to 550,000	220
550,001 to 600,000	230
600,001 to 660,000	240
660,001 to 720,000	250

720,001 to 780,000	260
780,001 to 840,000	270
840,001 to 910,000	280
910,001 to 970,000	290
970,001 to 1,050,000	300
1,050,001 to 1,140,000	310
1,140,001 to 1,230,000	320
1,230,001 to 1,320,000	330
1,320,001 to 1,420,000	340
1,420,001 to 1,520,000	350
1,520,001 to 1,630,000	360
1,630,001 to 1,730,000	370
1,730,001 to 1,850,000	380
1,850,001 to 1,970,000	390
1,970,001 to 2,060,000	400
2,060,001 to 2,270,000	410
2,270,001 to 2,510,000	420
2,510,001 to 2,750,000	430
2,750,001 to 3,020,000	440
3,020,001 to 3,320,000	450
3,320,001 to 3,620,000	460
3,620,001 to 3,960,000	470
3,960,001 to 4,310,000	480
4,310,001 to 4,690,000	490
4,690,001 or more	500

3) a) A supplier of water of a community water system or a non-community water system may, with the approval of the Department and based upon a sanitary survey, substitute the use of chlorine residual monitoring for not more than 75 percent of the samples required to be taken by

paragraph (1)(d)2) of this section, PROVIDED, that the supplier of water takes chlorine residual samples at points which are representative of the conditions within the distribution system at the frequency of at least four for each substituted microbiological sample. There shall be at least daily determinations of chlorine residual.

b) When the supplier of water exercises the option provided for in Section 3)a) above, he shall maintain no less than 0.2 mg/l free chlorine throughout the water distribution system. When a particular sampling point has been shown to have a free chlorine residual less than 0.2mg/l, the water at that location shall be retested as soon as practicable and in any event within one hour. If the original analysis is confirmed, this fact shall be reported to the Department within 48 hours. Also, if the analysis is confirmed, another sample for coliform bacterial analysis must be collected from that sampling point as soon as practicable and preferably within one hour, and the results of such analysis reported to the State within 48 hours after the results are known to the supplier of water.

c) Chlorine residual analysis shall be by the DPD or Amperometric method as specified in the current edition of "Standard Methods for the Analysis of Water and Wastewater". Compliance with the maximum contaminant levels for coliform bacteria shall be determined on the monthly mean basis specified in Section 17-22.04(1)(d) including those samples taken as a result of failure to maintain the required chlorine residual level. The Department may withdraw its overall approval of the use of chlorine residual substitution by written public notice in The Florida Adminis-

trative Weekly, or to a given public water system by actual notice.

4) a) When the coliform bacteria in a single sample exceed four per 100 milliliters using the membrane filter technique, at least two consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the Department, until the results obtained from at least two consecutive check samples show less than one coliform bacterium per 100 milliliters.

b) When coliform bacteria occur in three or more 10 ml portions of a single sample using the fermentation tube method, at least two consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily or at a frequency established by the Department until the results obtained from at least two consecutive check samples show no positive tubes.

c) When coliform bacteria occur in all five of the 100 ml portions of a single sample using the fermentation tube method, at least two daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, until the results obtained from at least two consecutive check samples show no positive tubes.

d) The location at which the check samples were taken pursuant to paragraph 4)a), b), or c) of this section shall not be eliminated from future sampling without approval of the Department. The results from all coliform bacterial analyses performed pursuant to this

subsection except those obtained from check samples and special purpose samples, shall be used to determine compliance with the maximum contaminant level for coliform bacteria as established in 17-22.04(1)(d). Check samples shall not be included in calculating the total number of samples taken each month to determine compliance with 17-22.05(1)(d)2).

5) When the presence of coliform bacteria in water taken from a particular sampling point has been confirmed by any check samples examined as directed in paragraphs 4)a), b) or c) of this section, the supplier of water shall report to the Department within 48 hours.

6) When a maximum contaminant level set forth in 17-22.04(1)(d)1), 2) or 3) is exceeded, the supplier of water shall report to the Department and notify the public as prescribed in 17-22.11(2) and 17-22.12.

7) Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement, or repair have been sufficient, shall not be used to determine compliance with 17-22.04(1)(d)(4) or 17-22.05(1)(d)2).

(e) Radionuclides

1) Monitoring Frequency for Radioactivity in Community Water Systems.

a) Monitoring requirements for gross alpha particle activity, radium-226 and radium-228.

1. Initial sampling to determine compliance with 17-22.04(1)(c) shall begin by June 24, 1979 and the analysis shall be completed by June 24, 1980. Compliance shall be based on the analysis of an annual composite

of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals.

a. A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis, PROVIDED, that the measured gross alpha particle activity does not exceed 5 pCi/l at a confidence level of 95 percent [$(1.65 \sigma \text{ (sigma)})$ - where σ (sigma) is the standard deviation of the net counting rate of the sample)]. In localities where radium-228 is known to be present in drinking water, radium-226 and/or radium-228 analyses shall be provided when the gross alpha particle activity exceeds 2pCi/l.

b. When the gross alpha particle activity exceeds 5pCi/l, the same of an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds 3pCi/l the same or an equivalent sample shall be analyzed for radium-228.

2. For the initial analysis required by paragraph 1)a)1., data acquired within one year prior to the effective date of this part may be substituted.

3. Suppliers of water shall monitor at least once every four years following the procedure required by paragraph 1)a)1. When an annual record taken in conformance with paragraph 1)a)1. has established that the average annual concentration is less than half the maximum contaminant levels established by 17-22.04(1)(e), analysis of a single sample may be substituted for the quarterly sampling procedure required by paragraph 1)a)1.

a. More frequent monitoring shall be conducted when ordered by the Department in the

vicinity of mining or other operations which may contribute alpha particle radioactivity to either surface or ground water sources of drinking water.

b. A supplier of water shall monitor in conformance with paragraph 1)a)1. within one year of the introduction of a new water source for a community water system. More frequent monitoring shall be conducted when ordered by the Department in the event of possible contamination or when changes in the distribution system or treatment processes occur which may increase the concentration of radioactivity in finished water.

c. A community water system using two or more sources having different concentrations of radioactivity shall monitor source water, in addition to water from a free-flowing tap, when ordered by the Department.

d. Monitoring for compliance with 17-22.04(1)(e) after the initial period need not include radium-228 except when required by the Department, PROVIDED, that the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure required by paragraph 1)a)1.

e. Suppliers of water shall conduct annual monitoring of any community water system in which the radium-226 concentration exceeds 3pCi/l, when ordered by the Department.

4. If the average annual maximum contaminant level for gross alpha particle activity or total radium as set forth in 17-22.04(1)(e)1 is exceeded, the supplier of a community water system shall give notice to the Department pursuant to 17-22.11(2) and notify the public

as required by 17-22.12. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

b) Monitoring requirements for man-made radioactivity in community water systems - beta particle and photon radioactivity.

1. By June 24, 1979, systems using surface water sources and serving more than 100,000 persons and such other community water systems as are designated by the Department shall be monitored for compliance with 17-22.04(1)(e)2 by analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. Compliance with 17-22.04(1)(e)2 may be assumed without further analysis if the average annual concentration of gross beta particle activity is less than 50pCi/l and if the average annual concentrations of tritium and strontium-90 are less than those listed on Table A, PROVIDED, that if both radionuclides are present the sum of their annual dose equivalents to bone marrow shall not exceed 4 millirem/year.

a. If the gross beta particle activity exceeds 50pCi/l, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with 17-22.04(1)(e)2).

b. Suppliers of water shall conduct additional monitoring, as ordered by the Department to determine the concentration of man-made radioactivity in principal watersheds designated by the Department.

c. At the discretion of the Department suppliers of water utilizing only ground waters may be required to monitor for man-made radioactivity.

2. For the initial analysis required by paragraph (1)(b)1. data required within one year prior to June 24, 1977 may be substituted.

3. After the initial analysis required by paragraph (1)(b)1. suppliers of water shall monitor at least every four years following the procedure given in paragraph (1)(b)1..

4. By June 24, 1979 the supplier of any community water system designated by the Department as utilizing waters contaminated by effluents from nuclear facilities shall initiate quarterly monitoring for gross beta particle and iodine-131 radioactivity and annual monitoring for strontium-90 and tritium.

a. Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three monthly samples. The former is recommended. If the gross beta particle activity in a sample exceeds 15 pCi/l, the same or an equivalent sample shall be analyzed for strontium-89 and cesium-134. If the gross beta particle activity exceeds 50 pCi/l, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with 17-22.04(1)(e)2).

b. For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. As ordered by the Department more frequent

monitoring shall be conducted when iodine-131 is identified in the finished water.

c. Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. The latter procedure is recommended.

d. The Department will allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity by the supplier of water where the Department determines such data is applicable to a particular community water system.

5. If the average annual maximum contaminant level for man-made radioactivity set forth in 17-22.04(1)(e)2) is exceeded, the operator of a community water system shall give notice to the Department pursuant to 17-22.11(2) and to the public as required by 17-22.12. Monitoring at monthly intervals shall be continued until the concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

2) Analytical Methods for Radioactivity

a) The methods specified in "Interim Radiochemical Methodology for Drinking Water", Environmental Monitoring and Support Laboratory, EPA-600/4-75-008, USEPA, Cincinnati, Ohio 45268, or those listed below, are to be used to determine compliance with 17-22.04(1)(e)1) and 17-22.04(1)(e)2) (radioactivity) except in cases where alter-

native methods have been approved in accordance with 17-22.05(3).

1. Gross Alpha and Beta --Method 302 "Gross Alpha and Beta Radioactivity in Water" Standard Methods for the Examination of Water and Wastewater, Current Edition, American Public Health Association, New York, N.Y.

2. Total Radium -- Method 304 "Radium in Water by Precipitation" Ibid.

3. Radium-226 -- Method 305 "Radium-226 by Radon in Water" Ibid.

4. Strontium-89, 90 -- Method 303 "Total Strontium and Strontium-90 in Water" Ibid.

5. Tritium -- Method 306 "Tritium in Water" Ibid.

6. Cesium-134 -- ASTM D-2459 "Gamma Spectrometry in Water", 1975 Annual Book of ASTM Standards, Water and Atmospheric Analysis, Part 31, American Society for Testing and Materials, Philadelphia, PA (1975).

7. Uranium -- ASTM D-2907 "Micro-quantities of Uranium in Water by Fluorometry", Ibid.

b) When the identification and measurement of radionuclides other than those listed in paragraph 1)b)1. is required, the following references are to be used, except in cases where alternative methods have been approved in accordance with 17-22.05(3).

1. Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions, H. L. Krieger and S. Gold, EPA-R4-73-014, USEPA, Cincinnati, Ohio, May 1973.

2. HASL Procedure Manual, Edited by John H. Harley. HASL 300, ERDA Health and Safety Laboratory, New York, N. Y. 1973.

c) For the purpose of monitoring radioactivity concentrations in drinking water, the required sensitivity of the radioanalysis is defined in terms of a detection limit. The detection limit shall be that concentration which can be counted with a precision of plus or minus 100 percent at the 95 percent confidence level $\{[1.96 \sigma \text{ (sigma) where } \sigma \text{ (sigma) is the standard deviation of the net counting rate of the sample}]\}$.

1. To determine compliance with 17-22.04(1)(e)1)a), the detection limit shall not exceed 1 pCi/l. To determine compliance with 17-22.04(1)(e)1)b), the detection limit shall not exceed 3 pCi/l.

2. To determine compliance with 17-22.04(1)(e)2), the detection limits shall not exceed the concentrations listed in Table B.

Table B -- Detection Limits for Man-made Beta Particle and Photon Emitters

Radionuclide	Detection Limit
Tritium	1,000 pCi/l
Strontium-89	10 pCi/l
Strontium-90	2 pCi/l
Iodine-131	1 pCi/l
Cesium-134	10 pCi/l
Gross beta	4 pCi/l
Other radionuclides	1/10 of the applicable limit

d) To judge compliance with the maximum contaminant levels listed in sections 17-22.04(1)(e)1) and 17-22.04(1)(e)2), averages of data shall be used and shall be rounded to the same number of significant figures as the maximum contaminant level for the substance in question.

(2) SAMPLING AND ANALYTICAL REQUIREMENTS FOR SECONDARY CONTAMINANTS - MONITORING

a) The parameters in these secondary regulations shall be monitored at intervals no less frequent than the monitoring performed for inorganic chemical contaminants as applicable to community water systems.

b) Analyses conducted to determine compliance with 17-22.04(2) should be made in accordance with the following methods:

1. Chloride - Potentiometric Method, "Standard Methods for the Examination of Water and Wastewater", Current Edition.

2. Color - Platinum-Cobalt Method, "Methods for Chemical Analysis of Water and Wastes", pp. 36-38, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

3. Copper - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes", pp. 108-109, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

4. Stability - Reserved.

5. Foaming Agents - Methylene Blue Method,

"Methods for Chemical Analysis of Water and Wastes", pp. 157-158. Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

6. Hydrogen Sulfide -- Titrimetric Iodine Method, "Methods for Chemical Analysis of Water and Wastes", p. 284, Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

7. Iron - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes", pp. 110-111, Environmental Protection Agency, Office of Technology or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

8. Manganese - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes", pp. 116-117, Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

9. Odor - Consistent Series Method, "Methods for Chemical Analysis of Water and Wastes", pp. 287-294, Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

10. Sodium - Flame Photometric or Gravimetric Method, "Standard Methods for the Examination of Water and Wastewater", Current Edition.

11. Sulfate - Turbidimetric Method, "Methods for Chemical Analysis of Water and Wastes", pp. 227-278, Environmental Protection Agency, Office of Technology

Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

12. Total Dissolved Solids - Total Residue Method, "Methods for Chemical Analysis of Water and Wastes", pp. 270-271, Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

13. Zinc - Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes", pp. 155-156, Environmental Protection Agency, Office of Technology Transfer, Washington, D. C. 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater", Current Edition.

(3) ALTERNATIVE ANALYTICAL TECHNIQUE - With the written permission of the Department concurred in by the Administrator of the U. S. Environmental Protection Agency, an alternative analytical technique may be employed. An alternative technique shall be acceptable only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any maximum contaminant level. The use of the alternative analytical technique shall not decrease the frequency of monitoring required by this part.

(4) APPROVED LABORATORIES - For the purpose of determining compliance with 17-22.05(1)(2)(3), samples may be considered only if they have been analyzed by a laboratory approved by the Department of Health and Rehabilitative Services, except that measurements for turbidity and free chlorine residual may be performed by any person acceptable to the Department.

(5) MONITORING OF CONSECUTIVE PUBLIC SYSTEMS - When one public water system receives water from another public water system, the recipient public water system is the consecutive public water system. The consecutive public water system shall provide microbiological and chlorine residual monitoring in a manner complying with 17-22.05(1)(d). At the discretion of the Department, additional monitoring of primary and secondary contaminants may be required for some consecutive systems which, due to their size or other factors, merit such additional monitoring.

Specific Authority: 403.861(8)(15)(16)
Law Implemented: 403.852(12)(13); 403.853(1)(3)

PART III - CONSTRUCTION, OPERATION AND MAINTENANCE

General - The quality of potable water when it reaches the citizen depends on the construction, the operation, and maintenance of a public water system. The following regulations establish requirements for construction and operation and maintenance of a public water system, and cover all aspects of a public water system from collection through treatment, storage and distribution.

17-22.06 - CONSTRUCTION

(1) SOURCE AND PLANT SITE - Raw water should be obtained from the most desirable source that is feasible, and effort should be made to prevent or control contamination of the source. The plant site area should not be subject to a significant risk from earthquakes, floods, fires or other disasters which could cause a breakdown of the public water system or a portion thereof, and with the exception of intake structures should not be within the flood plain of a

100 year flood as designated by the U. S. Geologic Survey or lower than any recorded high tide where appropriate records exist.

(2) POTABLE WATER SUPPLY WELLS OR TEST WELLS THAT MAY LATER BE USED FOR POTABLE WATER SUPPLY - Number, Location, Construction, Clearing, Drilling Samples and Abandonment. In addition to the regulations set forth in Chapter 17-21, Florida Administrative Code, Part II - Minimum Water Well Construction Standards, the requirements of this subsection apply to potable water supply wells or test wells that may later be used for potable water supply.

a) Number - Number of wells required - A minimum of two potable water supply wells shall be provided for all community water systems serving 350 or more persons.

b) Location - Well sites shall not be located on ground subject to flooding and as far as is practical when the direction of ground water slope or movement is known, wells shall be located on the upstream side of potential sources of contamination and as far from these sources as practical. For level areas, well-tamped or puddled earth shall be placed around the well so as to elevate the concrete platform or apron. The apron must be a minimum of 6' x 6'. Wells shall be located a minimum of 100 feet from any potential source of contamination unless otherwise justified by natural (impermeable geological strata, etc.) or adequate treatment barriers.

c) Well construction -

1) Access - Every well shall be accessible for such attention as may be necessary.

2) Casing Materials and Grouting Requirements -

a. Casing and pipe other than as specified in Chapter 17-21.10(1) must be approved by the Department prior to installation and use.

b. Where telescoped casing is utilized, the casings shall be overlapped by not less than twenty (20) feet where increases or reductions occur in casing size. Not less than two (2) centralizing spacers shall be used in the overlapped sections and the annular space existing in the overlapped sections shall be completely sealed with cement grout.

c. Casing for wells which obtain their water from a rock layer or other such consolidated formation, shall, as a minimum be seated firmly into it and sealed with cement grout by an approved method.

d. For wells constructed with driven casing, the minimum acceptable seal shall be accomplished by undercutting or underreaming the last five (5) feet of the hole before seating the casing. A minimum of one (1) foot of such enlarged hole must be into the consolidated formation in which the casing will be seated. The entire enlarged portion shall be filled with cement grout and then the casing driven through the grout to refusal. No other minimum seal shall be acceptable unless approved in advance by the water management district or the Department. Any part of a well which is constructed by setting the casing in a previously constructed borehole which is of larger diameter than the outside diameter of the casing, shall be sealed by filling the annular space, from bottom to top, with cement grout. Grouting methods and minimum standards shall at all times conform to those stated in Chapter 17-21. The upper twenty (20) feet of casing shall be sealed with not less

than a two-inch thickness of cement grout. If an outer casing is used in the case of caving materials to hold open the annular space while accomplishing this upper grout seal, it shall be removed during or immediately after placement of the grout.

e. The top of the casing shall be so constructed as to exclude any influent.

f. Prior to emplacing the pumps at the wells, wells shall be protected at all times by sanitary seal or welded flange so as to prevent entrance of contaminating material.

3) Pump pits - Where a pump is planned, it must be provided with gravity drainage. At the discretion of the Department, two sump pumps may be required to guard against flooding in the event that one pump may fail.

4) Housing of well pump - Both well and pump shall be protected by a housing of adequate size having an impervious floor and weatherproof walls and roof, however, completely weatherproof or submersible installations need only be protected from tampering and vandalism.

5) Well vent - Where provided, well vents shall be adequately protected.

6) Sampling tap - A conveniently accessible, down-opening sampling tap located a minimum distance of 12 to 18 inches above ground surface shall be provided on the discharge side of each well pump, so that samples of raw water may be obtained from the well.

7) Dynamiting of wells - The use of dynamite or other explosives in the construction or maintenance of wells is hereby prohibited.

8) Infiltration galleries, etc. - Dug wells, infiltration galleries and other such sources of water supply requiring rearrangement of natural features are hereby prohibited as a source of public water supply unless water is treated in a manner approved by the Department.

d) Cleaning - The following procedure shall be followed for the cleaning of water supply wells. Water supply wells are to be cleaned of any microbiological or other contamination due to well drilling activities so that the true microbiological character of the well water can be ascertained and so that the public water system may draw upon well water free of contamination from well construction activities.

1) Cleaning - Every well shall be equipped with an opening in the casing which will allow introduction of disinfection agents and the measurement of static water level, drawdown, or artesian pressure. Before a new well, or one suspected to be contaminated, or one which has been repaired, is placed in use, it shall be pumped clean, and it shall then be disinfected in accordance with an applicable method of "American Water Works Association Standards" or a method acceptable to the Department, followed by a bacteriological survey. Samples of raw water from the well must be submitted to the Laboratories of the Department of Health and Rehabilitative Services for bacterial analysis as outlined in Section 17-22.06(2)(d)2) and use of the well will not be allowed until completion of survey and satisfactory interpretation of the results by the Department.

2) Bacteriological survey -

a. After thoroughly pumping the well

until no trace of the disinfecting agent can be found, daily samples for 20 or more consecutive workdays shall be collected after pumping the well for 20 to 30 minutes at the rated capacity of the permanent pump each consecutive day. The daily samples shall be handled according to acceptable methods as stated in "Standard Methods for the Examination of Water and Wastewater", Current Edition. The daily samples shall be submitted to a DHRS laboratory or other laboratory certified by DHRS for bacteriological analyses. When the Department determines that circumstances warrant it, the required number of samples and/or collection interval may be modified. In no case, however, is the daily collection of more than duplicate samples acceptable.

b. Interpretation of laboratory results in the well survey will be made in appropriate relationship with details of the well construction, the presence or absence of surface protection, the age of the well relative to the possible condition of the casing, the well log, or other pertinent information or conditions. However, where chlorination is the only treatment proposed, samples with mean coliform densities greater than four (4) per 100 MLS shall not exceed 10 percent of the total number analyzed.

c. Evaluation of the survey results shall be made in consideration of potential sources of contamination, well construction and treatment to be provided.

e) Drilling Samples - A log showing various strata pierced by the well and a detailed drawing of the well construction shall be forwarded by the driller to the appropriate local Department office and local water management district within thirty days after the completion of the

drilling operation. Cuttings samples at regular intervals not greater than 25 feet apart and at every change in formation together with a log and other data as required by the Department and well completion reports shall be submitted by the driller to the Bureau of Geology of the Department of Natural Resources when drilling is complete. Samples must show material in which the casing is seated. Use of well will be prohibited until the Bureau of Geology has received the necessary samples. Blank well completion report forms shall be secured by written application to the Department of Environmental Regulation, 2562 Executive Center Circle, East, Montgomery Building, Tallahassee, Florida 32301. Sample bags shall be secured from and samples delivered to the Bureau of Geology of the Department of Natural Resources, 903 West Tennessee Street, Tallahassee, Florida 32304.

f) Abandonment - Wells shall be closed utilizing an acceptable engineering practice approved in advance by the appropriate local Department office. Request for approval and granting of approval may be done by letter exchange. The person requesting approval shall as a minimum contain the following information in the letter requesting approval:

1. Location and size of well
2. Length of casing of well
3. Total depth of well
4. Water level in well
5. Method and materials used for plugging

the well. Capping the casing top is not an acceptable engineering practice and therefore un-approvable.

(3) TREATMENT PLANT, STORAGE AND DISTRIBUTION

FACILITIES - Water treatment facilities shall be

designed to provide adequate potable water of a quality that will not adversely affect the health and welfare of the consumer. In consideration of water treatment and distribution facilities design, the following criteria shall be complied with:

a) Water Treatment Plant - In addition to disinfection as required by 17-22.06(3)c) below, the water treatment plant shall be designed and located according to acceptable sanitary engineering practices so as to provide drinking water complying with 17-22.04, Florida Administrative Code standards.

b) Treatment, Coating, and Appurtenance Chemicals - Chemicals needed for treatment of drinking water or in coatings or other equipment surfaces, that come into contact with the water shall have been demonstrated through extensive toxicological studies or other procedure acceptable to the Department, that no immediate or cumulative adverse physiological effects to the consumer will occur.

c) Disinfection - All public water systems shall continually have effective disinfection measures employed on the water which the system distributes. The necessary apparatus shall be designed according to acceptable engineering practices based on substantive data regarding, but not limited to, the proposed disinfection measure, the source water and a sanitary survey, so as to maintain a minimum continuous and effective free chlorine residual of 0.2 ppm or its equivalent if other than chlorination is used as the disinfection measure.

d) Dual Chlorination Facilities -

1. Gas chlorination - Dual gas chlorination

facilities shall be provided on all water supply systems with an equivalent gas chlorine demand equal to or exceeding ten pounds per 24 hours. A single gas chlorinator may be provided on systems with an equivalent gas chlorine demand of less than ten pounds per 24 hours. Automatic chlorine cylinder switchover devices shall be provided along with systems using dual facilities unless the water system is provided with supervision on a 24 hour per day, 7 day per week basis and is equipped with an alarm system that will signal upon loss of chlorination capability or chlorine residual. All gas chlorination facilities shall be installed in a separate above grade room provided with floor level cross ventilation along with adequate weighing devices and safety equipment.

2. Hypochlorination - Hypochlorination facilities may be installed on public water systems with equivalent gas chlorine demands of 10 pounds per day or less, and when used on duplicate supplies they shall be installed in duplicate.

e) Auxiliary power - All community systems serving 350 or more persons shall be equipped with a source of adequate auxiliary power provided with automatic start up device except where 24 hour per day, 7 day per week operation is provided to allow operation of the water treatment units and provide pumping capability of approximately one half maximum daily system demand. Auxiliary power source shall be operated briefly at least once per month to insure dependability. For demineralization type systems such as reverse osmosis, electrodialysis, etc., source distribution pumping and disinfection capability requirement only applies.

f) High Service Pumps - High Service pumping and distribution facilities shall be designed to provide maximum hourly system demand without development of distribution pressures lower than 20 psi or other health hazards.

g) Meters - All community supplies shall be equipped with a metering device that accurately indicates pumpage of finished water to distribution.

h) Piping - All pump intake lines shall be located above grade or otherwise be protected.

i) Fluoridation - Inasmuch as present experimental evidence indicates that artificial fluoridation of public water supplies, under adequate supervisory control, will result in a significant reduction in tooth decay among children in communities utilizing this water treatment process, and so far no harmful effects from this treatment have been demonstrated, the Department feels justified in approving the application of fluoride to public water supplies deficient in this element, under controlled conditions, provided the following requirements shall be complied with:

1. Conditions - Prior to installation and placing into service of treatment facilities which apply fluoride compounds to a public water system the following shall be accomplished:

a. An expression in writing from the appropriate city official to the Department requesting permission to apply fluorides to the local water supply under supervision of the Department and compliance with Section 17-22.08.

b. Approval in writing for fluoridation from local medical society; local dental society; local

board of health; local health department; submission of copies of these written approvals to the Department.

c. Passage of a referendum or petition by a majority of the users or an ordinance by the city governing body of the users directing the water department to provide the means and to proceed with the introduction of fluoride to the water supply as directed by the Department.

2. Equipment and Installation

a. Fluoridation equipment shall be housed in a separate structure or room provided with floor level cross ventilation.

b. Weighing scales shall be provided, and in order to facilitate loading and to avoid unnecessary lifting of large containers should be installed flush with the loading platform at floor level.

c. Solution feed lines shall be installed as close to floor level as practical.

d. At the discretion of the Department, chemicals in powdered or granular form used for fluoridation shall be color coded when required to distinguish from other chemicals.

(4) In addition to the foregoing requirements, plans for public water systems shall be evaluated for acceptable engineering practices, primarily in light of the following:

"Manual for Evaluating Public Drinking Water Supplies" (U. S. Environmental Protection Agency), "Water Treatment Plant Design" (American Society of Civil Engineers, American Water Works Association and Conference of State Sanitary Engineers), "Recommended Standards for Water Works" (Great Lakes - Upper Mississippi River Board of State

Sanitary Engineers), "Water Quality and Treatment" (American Water Works Association), journals or standards of American Water Works Association, "Manual of Treatment Techniques for Meeting the Interim Primary Drinking Water Regulations" (U. S. Environmental Protection Agency) and other similar treatises and works.

Specific Authority: 403.861(8)(9)
Law Implemented: 403.852(12)(13); 403.853(1)(2)(3)(4)(5)

17-22.07 - OPERATION AND MAINTENANCE

(1) CLEANING AND DISINFECTION - No person charged with the management or control of a public water system shall put into service any new plant, pumping station, main, stand-pipe, reservoir, tank, or other pipe or structure through which water is delivered to consumers for potable or household purposes, nor resume the use of any such structure, facilities, or main after it has been cleaned, until such structure, facilities or main has been effectively disinfected. Provided, that this may not necessarily apply to mains, reservoirs, tanks, or other structures, the waters from which are subsequently treated and/or disinfected.

(2) CERTIFICATION LETTER AND CLEARANCE - Upon completion of construction, the engineer of record shall submit a certification of completion letter to the Department or designated county health unit. When a letter of certification and a copy of satisfactory bacteriological results are received, a letter of clearance for placing of facilities into service will be issued.

(3) OPERATION AND EQUIPMENT

a) Operation of public water systems according to approved plans - Upon construction of the public water

system the owner or responsible person shall operate and keep in operation all items designed for the purification of the water supply, or its protection from contamination.

b) All public water systems shall be provided with responsible operation personnel so that the public water system will comply with Chapter 17-16, Florida Administrative Code. Compliance with Chapter 17-16, Florida Administrative Code, is a requirement of this rule Chapter.

c) Water samples for laboratory test - The person responsible for the operation of all public water works shall submit to the Laboratory of the Department of Health and Rehabilitative Services or other certified laboratory such samples of the water, in such manner and at such time as stipulated in Section 17-22.05(a)(4), or as he may otherwise be directed by the Department of Health and Rehabilitative Services.*

d) Abnormal occurrences - No new source of water supply shall be introduced into the system, and no purification process or protective provision be altered or discontinued, except where the water works operator notifies the Department and secures written approval therefrom. In case of a breakdown in purification or protective works occurring, or where any suspicious circumstances or abnormal taste or odor occurs in connection with a public water supply, it shall be the duty of the person responsible for the operation of the works to notify immediately the Department by wire or telephone. Provided, however, that where there is an approved local health unit the local health officer shall be notified, and it shall be his duty to notify the Department.

e) Maintenance logs - on site maintenance log of

* If requested by the examining laboratory, the water supply owner shall provide sample shipping containers.

major water plant equipment shall be maintained and available at all times at all water treatment plants that treat water for a community water system. Log information shall include, as a minimum, all maintenance performed, date performed, problems encountered with equipment, etc.

(3) CROSS CONNECTION CONTROL

a) Cross-connection, which is the physical connection of a water system of unknown, questionable or unsafe water quality to a public water system, is prohibited. However, a person owning or managing a public water system may inter-connect to the public water system another water system if such other system is regularly examined as to its quality by those persons owning or managing the public water system and the other water system meets all requirements contained in Chapter 17-22, Florida Administrative Code. This provision shall apply to all water distribution systems which are either inside or outside of any building or buildings.

b) Control program and required action after detection - Community water systems are required to establish a routine cross-connection control program for the purpose of preventing cross-connections that create or have the potential to create an imminent and substantial danger to public health by and from contamination due to the cross-connection. However, upon detection of a prohibited cross-connection both community and non-community water systems shall either eliminate the cross-connection or discontinue service until the contaminant source can be eliminated.

c) Reporting - See Section 17-22.11 which follows.

Specific Authority: 403.861(8)
Law Implemented: 403.852(12)(13); 403.853(1)(3)

17-22.08 PERMITTING

(1) Applications - This subsection sets forth the various type drinking water permit applications as well as the minimum information and fee which must be supplied to the Department as a permit application.

a) Water Supply Well Drilling Permit

1. Prohibition - It is prohibited to construct or use a water supply well until a signed, validated permit is obtained from the Department and received by the driller of the well and the owner of the well.

2. Application - Before commencing the construction of a well, the licensed well drilling contractor shall make application to the Department for a water supply well drilling permit. The application form may be obtained from any of the Department's offices. The application shall be signed by the licensed well drilling contractor as well as the person, or authorized agent of the person, who will own the well. Application shall be made in triplicate to the appropriate local office of the Department.

3. Information - The permit application form sets forth the minimum information which is to be supplied to the Department. Additional information may be required by the Department for any given permit application. The information which is required by the permit application is as follows:

a. Type of construction, casing material, proposed depth and diameter, proposed type of casing seat, required yield, and nature of the place to be supplied by the well water.

b. A plat showing the location of the

proposed well relative to existing physical features. The location of known possible sources of contamination must be shown.

c. Additional data may be required by the Department.

b) Water Plant System Construction and Alteration Permit

1. Prohibition - No person shall construct a new or alter an existing water supply system plant without having first applied for and obtained a signed validated permit from the Department or designated County Health Unit.

2. Coverage - A water plant system includes jointly and severally the collection, treatment, storage and distribution segments of a public water system. Construction or alteration of any one or more segments will require application for and obtaining of a permit approving the construction or alteration.

3. Application - Before commencing construction or alteration a person or authorized agent of the person, shall make application to the Department for a Water Plant System Construction and Alteration Permit. The application shall be executed in full and made in quadruplicate to the appropriate local office of the Department or the local County Health Unit if designated by 17-22.08.

4. Engineer of record - All drawings, specifications and data required with the application shall be prepared by an engineer or engineers licensed in the state under the provision of Chapter 471, Florida Statutes, and shall fulfill the requirements of Section 471.30, Florida Statutes. The engineer of record or other qualified pro-

fessional engineer shall be retained to observe project construction and to assure conformance with approved engineering plans and specifications, and to perform the subsequent certification as to completion and conformance of project construction.

5. Information - The permit application form sets forth the minimum information which is to be supplied to the Department or designated County Health Unit. Additional information may be required by the Department for any given permit application. The information which is required by the application is as follows:

a. Certificate that the plans for the project have been approved by the governing body of the applicant (city commissioners, corporation, board, etc.)

b. Comprehensive engineer's report describing the project, basis of design, including design data and such pertinent data to give an accurate understanding of work to be undertaken and reasons therefor.

c. Prints of drawings of the work project which contain sufficient detail to clearly appraise the Department of the work to be undertaken. All prints shall be minimum 18 x 24 inch size, and a maximum size of 36 x 42 inches, and the scale of details contained shall be satisfactory for microfilm reproduction. (Reduced size photographic reproduction of drawings for submission may be authorized.)

d. Complete specifications of the project necessary to supplement the prints submitted.

e. Such additional data as may be requested by the Department after initial application for

purposes of clarification, anticipated use, or to support any changes in the scope of the project, actual or anticipated.

6. Designated Local Health Units - Those County Health Units with a qualified engineering staff shall be designated to do the following:

a. Review and evaluate each application for the construction, modification, or expansion of a public water system to determine compliance with federal, state, and local requirements.

b. Review, evaluate, and approve or disapprove applications for the expansion of distribution systems. The Department's District and Sub-district offices should be contacted for the names of those County Health Units which have been designated to approve or disapprove.

c. Fees - A non-refundable fee of twenty (20) dollars payable to the order of the agency receiving the application must accompany each application. The application is not received until the fee is submitted.

(2) APPROVAL - This sub-section sets forth the evaluation criteria the Department uses, the showing an applicant must make on each of the evaluation criteria, and the manner of decision on the application, duration, suspension and revocation of permits.

a) Showing - The applicant must provide the Department with reasonable assurance that no aspects of the design and proposed and completed construction will produce an imminent and substantial danger to health and that all applicable primary and secondary drinking water regulations will be complied with.

b) Evaluation Criteria - The Department will evaluate each application for the following:

1. Compliance with each and every quality standard contained in 17-22.04, Florida Administrative Code.

2. Adequate engineering design complying with acceptable engineering principles as established in 17-22.06, Florida Administrative Code.

3. A new small community or non-community system will not be approved if potable water is physically available from an existing public water system.

4. Any additional criteria not previously named, if used, will be made known to the applicant when a decision on the application is made known to the applicant.

c) Decisions - The Department's appropriate local office will either grant or deny a permit within the time prescribed by Chapter 120, Florida Statutes. Should an adverse decision be reached the applicant will be informed of that decision and the reasons therefor. Additionally, if a favorable decision is reached, a complete set of the approved plans, specifications, application, and other data shall be returned to the applicant. Provided, the Department may in its discretion return such complete set of approved plans and related material to the registered professional engineer authorized to represent the applicant. Any and all construction, alteration or extension of public water supply systems shall be in accordance with such Department approved plans. Provided, appropriate changes in a specific project may be made only on prior written approval and consent of the Department.

d) Duration, Suspension, Revocation - Unless

stated differently on the face of the permit, the permit shall be valid for one year from the date of issuance. Re-approval of expired permits will be considered by the Department upon written request to the office that issued the original permit. Suspensions and revocation will be done as stated in Section 17-4.10, Florida Administrative Code and Section 28-6.09, Florida Administrative Code.

Specific Authority: 403.861(b)

Law Implemented: 403.853(1)(2)(3); 403.861(7)(9); 403.862(1)(b), (c)

17-22.09 VARIANCE AND EXEMPTIONS AND RELEASE

(1) APPLICATION - This sub-section sets forth the information which must be contained in an application for a variance exemption or release. Information must be submitted on each item. Until information on each item is received, the Department has not received an application for either a variance or exemption. If information is submitted on each item, the Department will have received an application and will thereupon initially process the application for adequacy of information and thereafter process the application for its merits. Applications shall be submitted in triplicate to the local department office and also a single copy shall be sent to the Department's office in Tallahassee. All required copies will be furnished or the Department has not received the application.

(a) Variance Request - a supplier of water may request the granting of a variance for a public water system by submitting a request for a variance in writing to the Department. Suppliers of water may submit a joint request for variances when they seek similar variance or variances shall include the following information:

- 1) The nature and duration of variance requested.
- 2) Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of the state primary drinking water regulations.
- 3) For any request for variance form a maximum contaminant level:

a) Explanation in full and evidence of the best available treatment technology and techniques.

b) Economic and legal factors relevant to ability to comply.

c) Analytical results of raw water quality relevant to the variance request.

d) A proposed compliance schedule, including the date each step toward compliance will be achieved. Such schedule shall include as a minimum the following dates:

1. Date by which arrangement for alternative raw water source or improvement of existing raw water source will be completed.

2. Date of initiation of the connection of the alternative raw water source or improvement of existing raw water source.

3. Date by which final compliance is to be achieved.

e) A plan for the provision of safe drinking water in the case of an excessive rise in the contaminant level for which the variance is requested.

f) A plan for interim control measures during the effective period of variance.

4) For any request for variance, from a treatment technique, a statement that the system will perform monitoring and other reasonable requirements prescribed by the Department as a condition to the variance.

5) Other information, if any, believed to be pertinent by the applicant.

6) Such other information as the Department may require.

b) Exemption Request - A supplier of water may request the granting of an exemption for a public water system by submitting a request for exemption in writing to the Department. Suppliers of water may submit a joint request for exemption when they seek similar exemptions under similar circumstances. Any written request for an exemption or exemptions shall include the following information:

1) The nature and duration of exemption requested.

2) Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of the state primary drinking water regulations.

3) Explanation of the compelling factors such as time or economic factors which prevent such system from achieving compliance.

4) Other information, if any, believed by the applicant to be pertinent to the application.

5) A proposed compliance schedule, including the date when each step toward compliance will be achieved.

6) Such other information as the Department may require.

(c) Release Request - A supplier of water may request the granting of a release for a community water system by submitting a request for release in writing to the Department. Suppliers of water may submit a joint request for exemption when they seek similar exemptions under

similar circumstances. Any written request for a release or releases shall include the following information:

- 1) The nature and release requested.
- 2) Relevant analytical results of water quality sampling of the system and the water source, including results of relevant tests conducted pursuant to the requirements of Chapter 17-22, Florida Administrative Code.
- 3) Explanation of and justification for non-compliance
- 4) Proposed maximum contaminant level to replace the one(s) for which a release is sought (to be used for permitting purposes)
- 5) Other information, if any, believed by the applicant to be pertinent to the application
- 6) Such other information as the Department may require.

(2) APPROVAL - This sub-section sets for the evaluation criteria the Department uses, the showing an applicant must make, and the manner of decision of the application. Variances exemptions or releases cannot be obtained from operation, maintenance, monitoring and reporting requirements.

a) Showing - The applicant must provide the Department with the information that will enable the Department to:

- 1) variance from maximum contaminant level - find that granting a variance will not result in an unreasonable risk to health, application of treatment methods generally available at reasonable cost has not resulted in compliance, and all other reasonable technological, and

economic efforts have been tried.

2) exemption from maximum contaminant level - find that due to compelling factors the public system is unable to comply, the public water system was in operation on the effective date of the contaminant level from which exemption is sought, and granting will not result in an unreasonable risk to health.

3) release from secondary regulation maximum contaminant level - find that non-compliance with the prescribed MCL does not damage the public welfare and that compliance with the proposed MCL protects the public welfare.

b) Evaluation Criteria - The Department will evaluate the submitted information as well as any other available information for each item required for application.

c) Manner of Decision - The department will either grant or deny a variance exemption or release within the time prescribed by Chapter 120, Florida Statutes. Should an adverse decision be reached the applicant will be informed of that decision, the reasons therefor, and alternatives, if any, which are acceptable to the Department. Should a favorable decision be reached the applicant will be informed of that decision and the reasons therefor.

Specific Authority: 403.861(a)
Law Implemented: 403.852(12)(13); 403.853(1)(3)
403.854(1)(2)(3)

Part V - SURVEILLANCE, RECORDS AND REPORTING

General - The Department is charged with the duty to create and implement a drinking water program. Federal and State law require the State to report to EPA as well as collect

and periodically verify reports, etc. from suppliers of water.

17-22.10 SURVEILLANCE - The legislature has conferred upon the Department and the Department of Health and Rehabilitative Services and their authorized employees the authority and power to enter and inspect and sample public water systems. All employees of the Department and the Department of Health and Rehabilitative Services whose job responsibilities call for them to enter and sample and/or inspect a public water system are authorized to enter and sample and/or inspect, and conduct sanitary surveys.

Specific Authority: 403.861(b)
Law Implemented: 403.852(12)(13); 403.853(3);
403.855; 403.858

17-22.11 - RECORDS AND REPORTING

(1) RECORD MAINTENANCE - Any owner or operator of a public water system shall retain on its premises or at a convenient location near its premises the following records:

a) Records of bacteriological analyses made pursuant to this part shall be kept for not less than 5 years. Records of chemical analyses made pursuant to this part shall be kept for not less than 10 years. Actual laboratory reports may be kept, or data be transferred to tabular summaries, provided that the following information is included:

- 1) The date, place, and time of sampling, and the name of the person who collected the sample;
- 2) Identification of the sample as to whether it was a routine distribution system sample, check

sample, raw or process water sample or other special purpose sample;

3) Date of analysis;

4) Laboratory and person responsible for performing analysis;

5) The analytical technique/method used; and

6) The results of the analysis.

b) Records of action taken by the system to correct violation of primary drinking water regulations shall be kept for a period not less than 3 years after the last action taken with respect to the particular violation involved.

c) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State or Federal agency, shall be kept for a period not less than 10 years after completion of the sanitary survey involved.

d) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than 5 years following the expiration of such variance and exemption.

e) Water plant operation reports shall be kept for a period of not less than 5 years.

(2) REPORTING REQUIREMENTS

a) Except where a shorter reporting period is specified in this part, the suppliers of water shall report to the district or sub-district offices of the Department within 40 days following a test, measurement or analysis

required to be made by this part, the results of that test, measurement or analysis.

b) Water plant operation reports shall be submitted to the appropriate sub-district office of the Department or designated County Health Department within 15 days after end of the month.

c) The suppliers of water shall report to the district or sub-district office of the Department within 48 hours the failure to comply with any drinking water regulation contained in Section 17-22.04 or 17-22.05.

d) The supplier of water is not required to report analytical results to the Department in cases where a Department of Health and Rehabilitative Services laboratory performs the analysis and reports the results to the Department.

(3) LOCATION OF RECORDS - The above records shall be maintained on file by the department as follows:

a) All results of chemical analyses shall be retained by the district, sub-district and central offices of the Department.

b) All results of bacteriological analyses shall be retained by the district and sub-district offices of the Department.

c) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State or Federal agency, shall be kept on file at the district, sub-district and central offices of the Department.

(d) Records concerning a variance, exemption or

release granted to the system shall be kept on file at the district, sub-district and central offices of the Department.

(e) Water plant operation reports shall be kept on file at the plant site and at the district and sub-district office.

Specific Authority: 403.861(b)
Law Implemented: 403.853(3)

Part VI PUBLIC NOTIFICATION, IMMINENT HAZARDS

General - In order to carry out the duties of the Department as well as to assure adequate protection of the public, requirements and procedures are needed to systematize and standardize response and actions in such situations.

17-22.12 - PUBLIC NOTIFICATION

(1) If a community water system fails to comply with an applicable maximum contaminant level established in 17-22.04, fails to comply with an applicable testing procedure established in 17-22.05, is granted a variance, an exemption or release from an applicable maximum contaminant level, fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required in 17-22.05, the supplier of water shall notify persons served by the system of the failure or grant by inclusion of a notice in the first set of water bills of the system issued after the failure or variance, exemption or release grant and in any event by written notice within three months. Such notice shall be repeated at least once every three months so long as the system's failure continues or the variance or exemption

remains in effect. If the system issues water bills less frequently than quarterly, or does not issue water bills, the notice shall be made by or supplemented by another form of direct mail.

(2) If a community water system has failed to comply with an applicable maximum contaminant level, the supplier of water shall notify the public of such failure, in addition to the notification required by paragraph (1) of this section, as follows:

(a) By publication on not less than three consecutive days in a newspaper or newspapers of general circulation in the area served by the system. Such notice shall be completed within fourteen days after the supplier of water learns of the failure.

(b) By furnishing a copy of the notice to the radio and television stations serving the area served by the system. Such notice shall be furnished within seven days after the supplier of water learns of the failure.

(3) If the area served by a community water system is not served by a daily newspaper of general circulation, notification by newspaper required by paragraph (b) of this section shall instead be given by publication on three consecutive weeks in a weekly newspaper of general circulation serving the area. If no weekly or daily newspaper of general circulation serves the area, notice shall be given by posting the notice in post offices within the area served by the system.

(4) If a non-community water system fails to comply with an applicable maximum contaminant level established in 17-22.04, fails to comply with an applicable testing pro-

cedure established in 17-22.05, is granted a variance or exemption from an applicable maximum contaminant level, fails to comply with the requirement of any schedule prescribed pursuant to a variance or exemption or fails to perform any monitoring required in 17-22.05, the supplier of water shall give notice of such failure or variance or exemption grant to the persons served by the system by fixed sign located at all potable water outlets or connections.

(5) Notices given pursuant to this section shall be written in a manner reasonably designed to inform fully the users of the system. The notice shall be conspicuous and shall not use unduly technical language, unduly small print or other methods which would frustrate the purpose of the notice. The notice shall disclose all material facts regarding the subject including the nature of the problem, and when appropriate, a clear statement that a drinking water regulation contained in Section 17-22.04 and/or 17-22.05, Florida Administrative Code has been violated and any preventive measures that should be taken by the public. Where appropriate, or where designated by the Department, bilingual notice shall be given. Notice may include a balanced explanation of the significance or seriousness to the public health of the subject of the notice, a fair explanation of steps taken by the system to correct any problem and the results of any additional sampling.

(6) Notice to the public required by this section may be given by the Department on behalf of the supplier of water.

(7) In any instance in which notification by mail is required by paragraph (1) of this section but notification

by newspaper or to radio or television stations is not required by paragraph (2) of this section, the Department may order the supplier of water to provide notification by newspaper and to radio and television stations when circumstances make more immediate or broader notice appropriate to protect the public health.

Specific Authority: 403.861(b)
Law Implemented: 403.857

17-22.13 - IMMINENT HAZARDS - Before the Department can invoke the powers conferred upon it by Section 403.855, Florida Statutes, the Department will as a minimum need the following information:

- (1) name and address of the responsible person;
- (2) identification of the contaminant which is present in or likely to enter a public water system;
- (3) an explanation of how and why the contaminant presents an imminent and substantial danger; and,
- (4) the name and location of the public water system and its owner, if different from #1.

Upon receipt of sufficient information and after investigation of that information, the Department will take action which is appropriate to the situation. Taking action pursuant to Section 17-22.13, Florida Administrative Code, and Section 403.855 does not exclude taking simultaneous action pursuant to Section 403.856, Florida Statutes.

Specific Authority: 403.861(b)
Law Implemented: 403.855



SC

A bill to be entitled

An act relating to safe drinking water;
creating ss. 403.850-403.864, Florida Statutes;
providing short title, declaration of policy,
and definitions; requiring the Department of
Environmental Regulation to adopt primary and
secondary drinking water regulations; providing
variances and exemptions from the regulations;
authorizing the department to take such actions
as it deems necessary when presented with
imminent hazards; requiring the department to
adopt a plan for emergency provision of
drinking water; providing for notice to users
and regulatory agencies whenever there is a
problem with the public water supply system or
a failure to comply with regulations; providing
for inspections of public water systems;
prescribing prohibited acts; providing
penalties and remedies; providing the powers
and duties of the department; providing for the
powers and duties of the Department of Health
and Rehabilitative Services with respect to the
act and for a coordinated budget request with
the Department of Environmental Regulation;
requiring a state public water supply
laboratory certification program and a public
water supply accounting program; amending s.
381.261, Florida Statutes; providing the
Department of Health and Rehabilitative
Services with certain supervisory duties over
water systems not covered by this act; amending

s. 381.291, Florida Statutes; authorizing the Department of Health and Rehabilitative Services to issue orders requiring owners to correct water systems, not covered by this act, which systems constitute a nuisance or menace to the public health; adding s. 403.101(3)-(7), Florida Statutes; providing for the regulation of operators of water purification and wastewater treatment plants; prescribing fees with respect to examination and certification; repealing ss. 381.2611, 381.271, 381.281, 381.293, Florida Statutes; deleting the powers and duties of the Division of Health as they relate to water supply systems, methods of water purification, and disposal of drainage, sewage, and refuse, and regulation of operators of purification and waste-water treatment plants; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 403.850, Florida Statutes, is created to read:

403.850 Short title.--This act may be cited as the "Florida Safe Drinking Water Act".

Section 2. Section 403.851, Florida Statutes, is created to read:

403.851 Declaration of policy; intent.--It is the policy of the state that the citizens of Florida shall be assured of the availability of safe drinking water.

1 Recognizing that this policy encompasses both environmental
2 and public health aspects, it is the intent of the Legislature
3 to provide a water supply program operated jointly by the
4 Department of Environmental Regulation, in a lead-agency role
5 of primary responsibility for the program, and by the
6 Department of Health and Rehabilitative Services and its
7 units, including county health departments, in a supportive
8 role with specific duties and responsibilities of its own.
9 Without any relinquishment of Florida's sovereign powers and
10 responsibilities to provide for the public health, public
11 safety, and public welfare of the people of Florida, the
12 Legislature intends:

13 (1) To give effect to Public Law 93-523 promulgated
14 under the commerce clause of the United States Constitution to
15 the extent that interstate commerce is directly affected,

16 (2) To encourage cooperation between federal, state,
17 and local agencies, not only in their enforcement, but also in
18 their service and assistance roles to city and county elected
19 bodies, and

20 (3) To provide for safe drinking water at all times
21 throughout the state with due regard for economic factors and
22 efficiency in government.

23 Section 3. Section 403.852, Florida Statutes, is
24 created to read:

25 403.852 Definitions.--As used in ss. 403.850-403.264:

26 (1) "Department" means the Department of Environmental
27 Regulation which is charged with the primary responsibility
28 for the administration and implementation of the Florida Safe
29 Drinking Water Act.

30 (2) "Public water system" means a community or
31 noncommunity system for the provision to the public of piped

1 water for human consumption, provided that such system has at
2 least 15 service connections or regularly serves at least 25
3 individuals daily at least 60 days out of the year. The term
4 includes:

5 (a) Any collection, treatment, storage, and
6 distribution facility or facilities under control of the
7 operator of such system and used primarily in connection with
8 such system.

9 (b) Any collection or pretreatment storage facility or
10 facilities not under control of the operator of such system
11 but used primarily in connection with such system.

12 (3) "Community water system" means a public water
13 system which serves at least 15 service connections used by
14 year-round residents or regularly serves at least 25 year-
15 round residents.

16 (4) "Noncommunity water system" means a public water
17 system for provision to the public of piped water for human
18 consumption that serves at least 25 individuals daily at least
19 60 days out of the year but that is not a community water
20 system.

21 (5) "Person" means an individual, public or private
22 corporation, company, association, partnership, municipality,
23 agency of the state, district, federal agency, or any other
24 legal entity, or its legal representative, agent, or assigns.

25 (6) "Municipality" means a city, town, or other public
26 body created by or pursuant to state law or an Indian tribal
27 organization authorized by law.

28 (7) "Federal agency" means any department, agency, or
29 instrumentality of the United States Government.

30 (8) "Supplier of water" means any person who owns or
31 operates a public water system.

1 (9) "Contaminant" means any physical, chemical,
2 biological, or radiological substance or matter in water.

3 (10) "Administrator" means the Administrator of the
4 United States Environmental Protection Agency.

5 (11) "Federal act" means the Safe Drinking Water Act,
6 Public Law 93-523.

7 (12) "Primary drinking water regulation" means a rule
8 which:

9 (a) Applies to public water systems;

10 (b) Specifies contaminants which, in the judgment of
11 the department after consultation with the Department of
12 Health and Rehabilitative Services, may have an adverse effect
13 on the health of the public;

14 (c) Specifies for each such contaminant either:

15 1. A maximum contaminant level if, in the judgment of
16 the department, it is economically and technologically
17 feasible to ascertain the level of such contaminant in water
18 in public water systems; or

19 2. Each treatment technique known to the department
20 which leads to a reduction in the level of the contaminant
21 sufficient to satisfy the requirements of s. 403.853 if, in
22 the judgment of the department, it is not economically or
23 technologically feasible to ascertain the level of such
24 contaminant; and

25 (d) Contains criteria and procedures to assure a
26 supply of drinking water which dependably complies with such
27 maximum contaminant levels, including quality control and
28 testing procedures to assure compliance with such levels and
29 to ensure proper operation and maintenance of the system, and
30 which contains requirements as to:
31

- 1 1. The minimum quality of water which may be taken
2 into the system; and
- 3 2. Siting for new facilities for public water systems.
- 4 (13) "Secondary drinking water regulation" means a
5 rule which:
- 6 (a) Applies to public water systems; and
- 7 (b) Specifies the maximum contaminant levels which, in
8 the judgment of the department, after public hearings, are
9 requisite to protect the public welfare. Such regulation may
10 apply to any contaminant in drinking water:
- 11 1. Which may adversely affect the odor or appearance
12 of such water and consequently may cause a substantial number
13 of the persons served by the public water system providing
14 such water to discontinue its use; or
- 15 2. Which may otherwise adversely affect the public
16 welfare.
- 17
- 18 Such regulations may vary according to geographic and other
19 circumstances.
- 20 (14) "National primary drinking water regulations"
21 means primary drinking water regulations promulgated by the
22 administrator pursuant to the federal act.
- 23 (15) "National secondary drinking water regulations"
24 means secondary drinking water regulations promulgated by the
25 administrator pursuant to the federal act.
- 26 (16) "Sanitary survey" means an on-site review of the
27 water source, facilities, equipment, operation, and
28 maintenance of a public water system for the purpose of
29 evaluating the adequacy of such source, facilities, equipment,
30 operation, and maintenance for producing and distributing safe
31 drinking water.

1 Section 4. Section 403.853, Florida Statutes, is
2 created to read:

3 403.853 Drinking water standards.--

4 (1) The department shall adopt and enforce:

5 (a) State primary drinking water regulations that
6 shall be no less stringent at any given time than the complete
7 interim or revised national primary drinking water regulations
8 in effect at such time; and

9 (b) State secondary drinking water regulations
10 patterned after the national secondary drinking water
11 regulations.

12 (c) Primary and secondary drinking water regulations
13 for non-community water systems which shall be no more
14 stringent than the corresponding national primary or secondary
15 drinking water regulations in effect at such time.

16 (2) Subject to the exceptions authorized pursuant to
17 s. 403.854, state primary drinking water regulations shall
18 apply to each public water system in the state, except that
19 such regulations shall not apply to any public water system
20 which meets all of the following criteria, namely, that the
21 system:

22 (a) Consists of distribution and storage facilities
23 only and does not have any collection or treatment facilities;

24 (b) Obtains all of its water from, but is not owned or
25 operated by, a public water system to which such regulations
26 apply;

27 (c) Does not sell water to any person; and

28 (d) Is not a carrier which conveys passengers in
29 interstate commerce.

30 (3) The department shall adopt and implement adequate
31 rules specifying procedures for the enforcement of state

1 primary and secondary drinking water regulations, including
2 monitoring and inspection procedures, that comply with
3 regulations established by the administrator pursuant to the
4 federal act.

5 (4) The department shall keep such records and make
6 such reports, with respect to its activities under subsections
7 (1) and (3), as may be required by regulations established by
8 the administrator pursuant to the federal act. Such records
9 and reports shall be available for public inspection.

10 (5) No state primary drinking water regulation may
11 require the addition of any substance for preventive health
12 care purposes unrelated to the contamination of drinking
13 water.

14 Section 5. Section 403.854, Florida Statutes, is
15 created to read:

16 403.854 Variances and exemptions.--

17 (1) The department may authorize variances or
18 exemptions from the regulations issued pursuant to s. 403.853
19 under conditions and in such manner as it deems necessary and
20 desirable; provided that such variances or exemptions are
21 authorized under such conditions and in such manner as are no
22 less stringent than the conditions under which and the manner
23 in which variances and exemptions may be granted under the
24 federal act.

25 (2) The department shall exempt public water systems
26 from any requirements respecting a maximum contaminant level
27 or any treatment technique requirement, or both, when:

28 (a) Due to compelling factors (which may include
29 economic factors), the public water system is unable to comply
30 with such contaminant level or treatment technique
31 requirement;

1 (b) The public water system was in operation on the
2 effective date of such contaminant level or treatment
3 technique requirement; and

4 (c) The granting of the exemption will not result in
5 an unreasonable risk to health.

6 Proposed additions to existing treatment plants not under
7 contract for construction on the effective date of this act
8 shall not be automatically exempt.

9 (3)(a) When the department receives an application for
10 exemption; the department shall act upon such application
11 within a time period under Section 1416 (g) of Public Law 93-
12 523 or the Florida Administrative Procedure Act, whichever is
13 earlier.

14 (b) The department shall prescribe a compliance
15 schedule for the exempted system and shall notify the
16 Environmental Protection Agency Administrator personally by
17 certified mail pursuant to Public Law 93-523, Section 1416 (b)
18 and (c).

19 Section 6. Section 403.855, Florida Statutes, is
20 created to read:

21 403.855 Imminent hazards.--The department, upon
22 receipt of information that a contaminant which is present in
23 or is likely to enter a public water system may present an
24 imminent and substantial danger to the public health, may take
25 such actions as it may deem necessary in order to protect the
26 public health. Actions which the department may take include,
27 but are not limited to:

- 28 (1) Adopting emergency rules pursuant to s. 120.54(9).
29 (2) Issuing such corrective orders as may be necessary
30 to protect the health of persons who are or may be users of
31 such systems, including travelers. An order issued by the

1 department under this section shall become effective upon
2 service of such order on the alleged violator notwithstanding
3 the provisions of s. 403.860(4).

4 (3) Commencing a civil action for appropriate relief,
5 including a restraining order or permanent or temporary
6 injunction.

7 Section 7. Section 403.856, Florida Statutes, is
8 created to read:

9 403.856 Plan for emergency provision of water.--The
10 department shall adopt an adequate plan, after consultation
11 with the Department of Health and Rehabilitative Services, for
12 the provision of safe drinking water under emergency
13 circumstances. When, in the judgment of the department,
14 emergency circumstances exist in the state with respect to a
15 need for safe drinking water, it may issue such rule or order
16 as it may deem necessary in order to provide such water where
17 it would not otherwise be available.

18 Section 8. Section 403.857, Florida Statutes, is
19 created to read:

20 403.857 Notification of users and regulatory
21 agencies.--Whenever a public water supply system:

22 (1) Is not in compliance with the state primary and
23 secondary drinking water regulations;

24 (2) Fails to perform monitoring required by rules or
25 regulations adopted by the department;

26 (3) Is subject to a variance granted for an inability
27 to meet a maximum contaminant level requirement;

28 (4) Is subject to an exemption; or

29 (5) Fails to comply with the requirements prescribed
30 by a variance or exemption;

31

1 the owner or operator of the system shall, as soon as
2 practicable, notify the local public health departments, the
3 department, and the communications media serving the area
4 served by the system of that fact and of the extent and nature
5 and possible health effects of such fact. Such notice shall
6 also be given by the owner or operator of the system by
7 publication in a newspaper of general circulation, as
8 determined by the department, within the area served by such
9 water system at least once every 3 months as long as the
10 violation, variance, or exemption continues. Such notice
11 shall also be given with the water bills of the system as long
12 as the violation, variance, or exemption continues, as
13 follows: if the water bills of a public water system are
14 issued at least as often as once every 3 months, such notice
15 shall be included in at least one water bill of the system for
16 each customer every 3 months; if the system issues its water
17 bills less often than once every 3 months, such notice shall
18 be included in each of the water bills issued by the system
19 for each customer. However, the provisions of this section
20 notwithstanding, the department may prescribe by rule
21 reasonable alternative notice requirements.

22 Section 9. Section 403.858, Florida Statutes, is
23 created to read:

24 403.858 Inspections.--Any duly authorized
25 representative of the department or of the Department of
26 Health and Rehabilitative Services may enter, take water
27 samples from, and inspect any property, premises, or place,
28 except a building which is used exclusively for a private
29 residence, on or at which a public water system is located or
30 is being constructed or installed, at any reasonable time, for
31

1 the purpose of ascertaining the state of compliance with the
2 law or with rules or orders of the department.

3 Section 10. Section 403.859, Florida Statutes, is
4 created to read:

5 403.859 Prohibited acts.--The following acts and the
6 causing thereof are prohibited and are violations of this act:

7 (1) Failure by a supplier of water to comply with the
8 requirements of s. 403.857, or dissemination by such supplier
9 of any false or misleading information with respect to notices
10 required pursuant to s. 403.857 or with respect to remedial
11 actions being undertaken to achieve compliance with state
12 primary and secondary drinking water regulations.

13 (2) Failure by a supplier of water to comply with
14 regulations adopted pursuant to s. 403.853, any rule adopted
15 by the department pursuant to this act, or with conditions for
16 variances or exemptions authorized under s. 403.854.

17 (3) Failure by any person to comply with any order
18 issued by the department pursuant to this act.

19 (4) Failure by a supplier of water to allow any duly
20 authorized representative of the department or of the
21 Department of Health and Rehabilitative Services to conduct
22 inspections pursuant to s. 403.858.

23 (5) Submission by any person of any false statement or
24 representation in any application, record, report, plan or
25 other document filed, or required to be filed by this act, or
26 rules adopted by the department pursuant to its lawful
27 authority.

28 (6) Failure by a supplier of water to comply with any
29 approval or condition to the approval of plans and
30 specifications issued by the department pursuant to this act.
31

1 Section 11. Section 403.860, Florida Statutes, is
2 created to read:

3 403.860 Penalties and remedies.--

4 (1) A fine, not to exceed \$5,000 for each day in which
5 a violation occurs, may be imposed by a court of competent
6 jurisdiction on any person who violates s. 403.859 (1), (2),
7 (4), (5) or (6).

8 (2) A fine, not to exceed \$5,000 for each day in which
9 such violation occurs or failure to comply continues, may be
10 imposed by a court of competent jurisdiction upon any person
11 who violates, or fails or refuses to comply with, any order
12 issued by the department pursuant to this act.

13 (3) The department may initiate an administrative
14 proceeding to establish liability and require corrective
15 action. Such proceeding shall be instituted by the department
16 serving a written notice of violation upon the alleged
17 violator by certified mail. The notice shall specify the
18 provision of law or rule of the department alleged to have
19 been violated and the facts alleged to constitute a violation
20 thereof. An order for corrective action may be included with
21 the notice. However, no order shall become effective until
22 after service and an administrative hearing, if requested
23 within 20 days after service. Failure to request an
24 administrative hearing within this time period shall
25 constitute a waiver thereof. A department order, entered
26 after a hearing pursuant to chapter 120, or a waiver thereof,
27 shall be final and constitute a final adjudication of the
28 matters alleged. Such order may require, in addition to
29 corrective action, that the violator pay the state for its
30 reasonable costs and expenses incurred in investigating the
31 violation and prosecuting the administrative proceeding.

1 (4) The department may institute a civil action in any
2 court of appropriate jurisdiction for injunctive relief to
3 prevent violation of any order, rule, or regulation issued
4 pursuant to this act, in addition to any other remedies
5 provided under this section.

6 Section 12. Section 403.861, Florida Statutes, is
7 created to read:

8 403.861 Department; powers and duties.--The department
9 shall have the power and the duty to carry out the provisions
10 and purposes of this act and for this purpose to:

11 (1) Administer and enforce the provisions of this act
12 and all rules and orders adopted, issued, or effective
13 hereunder.

14 (2) Enter into agreements, contracts, or cooperative
15 arrangements, under such terms and conditions as it deems
16 appropriate, with other local, state, federal, or interstate
17 agencies, municipalities, political subdivisions, educational
18 institutions, or other organizations or persons.

19 (3) Receive financial and technical assistance from
20 the Federal Government and other public or private agencies.

21 (4) Participate in related programs conducted by
22 federal agencies, other states, interstate agencies, or other
23 public or private agencies or organizations.

24 (5) Establish adequate fiscal controls and accounting
25 procedures to assure proper disbursement of, and accounting
26 for, funds appropriated or otherwise provided for the purpose
27 of carrying out provisions of this act.

28 (6) Delegate those responsibilities and duties as
29 deemed appropriate for the purpose of administering
30 requirements of this act.
31

1 (7) Require an application fee of not more than \$20
2 for department review and approval of public water system
3 plans and specifications.

4 (8) Adopt, modify, and repeal such rules as are
5 necessary or appropriate to carry out its functions under this
6 act.

7 (9) Require department or county health department
8 review and approval of complete plans and specifications prior
9 to the installation, operation, alteration, or extension of
10 any public water system.

11 (10) Establish and maintain laboratories for
12 radiological, microbiological, and chemical analyses of water
13 samples from public water systems if the department determines
14 that an additional laboratory capability beyond that provided
15 by the Department of Health and Rehabilitative Services is
16 necessary.

17 (11) Plan, develop, and coordinate program activities
18 for the management and implementation of the state primary and
19 secondary drinking water regulations, including taking
20 sanitary surveys.

21 (12) Collect and disseminate information and conduct
22 educational and training programs relating to drinking water
23 and public water systems.

24 (13) Conduct data management activities to maintain
25 essential records needed for administration of the public
26 water system supervision program and for submission to the
27 administrator, including the maintenance of an inventory for
28 all public water systems.

29 (14) Establish and collect fees for conducting state
30 laboratory analyses as may be necessary, to be collected and
31 used by either the department or the Department of Health and

1 Rehabilitative Services in conducting its public water supply
2 laboratory functions.

3 (15) Require suppliers of water to collect samples of
4 water as required by state primary drinking water regulations,
5 to submit such samples to an appropriate laboratory for
6 analysis and to keep sampling records as required under the
7 federal act and make such records available to the department
8 upon request.

9 (16) Require suppliers of water to submit periodic
10 operating reports and testing data which the department
11 determines is reasonably necessary to ascertain the adequacy
12 of water supply systems.

13 (17) Issue such orders as may be necessary to
14 effectuate the intent and purposes of this act.

15 (18) Assist state and local agencies in the
16 determination and investigation of suspected waterborne
17 disease outbreaks, including diseases associated with chemical
18 contaminants.

19 (19) Encourage public involvement and participation in
20 the planning and implementation of the state public water
21 system supervisory plans.

22 Section 13. Section 403.862, Florida Statutes, is
23 created to read:

24 403.862 Department of Health and Rehabilitative
25 Services; public water supply duties and responsibilities;
26 coordinated budget requests with Department of Environmental
27 Regulation.--

28 (1) Recognizing that supervision and control of units
29 of the Department of Health and Rehabilitative Services is
30 retained by the secretary of that agency, and that public
31 health aspects of the state public water supply program

1 require joint participation in the program by the Department
2 of Health and Rehabilitative Services and its units and the
3 department, the Department of Health and Rehabilitative
4 Services shall:

5 (a) Establish and maintain laboratories for the
6 conducting of radiological, microbiological, and chemical
7 analyses of water samples from public water systems which are
8 submitted to such laboratories for analysis. Copies of the
9 reports of such analyses and quarterly summary reports shall
10 be submitted to the appropriate department district or
11 subdistrict office.

12 (b) Require each county health department to:

13 1. Collect such water samples for analysis as may be
14 required by the terms of this act from public water systems
15 within its jurisdiction. The duty to collect such samples may
16 be shared with the appropriate department district or
17 subdistrict office and shall be coordinated by field personnel
18 involved.

19 2. Submit the collected water samples to the
20 appropriate laboratory for analysis.

21 3. Maintain reports of analyses for its own records.

22 4. Conduct complaint investigation of public water
23 systems to determine compliance with federal, state, and local
24 standards and permit compliance.

25 5. Notify the appropriate department district or
26 subdistrict office of potential violations of federal, state,
27 and local standards and permit conditions by public water
28 systems and assist the department in enforcement actions with
29 respect to such violations to the maximum extent practicable.

30 6. Review and evaluate laboratory analyses of water
31 samples from private water systems.

1 (c) Require those county health departments designated
2 by the Department of Health and Rehabilitative Services and
3 approved by the department as having qualified sanitary
4 engineering staffs, in addition to the duties prescribed in
5 subsection (1)(b), to:

6 1. Review and evaluate each application for the
7 construction, modification, or expansion of a public water
8 system to determine compliance with federal, state, and local
9 requirements. Upon completion of such review and evaluation,
10 the application shall be forwarded to the appropriate
11 department district or subdistrict office for final action.

12 2. Review, evaluate, and approve or disapprove
13 applications for the expansion of distribution systems.
14 Written notification of action taken on such applications
15 shall be forwarded to the appropriate department district or
16 subdistrict office.

17 3. Maintain inventory, operational, and
18 bacteriological records, and carry out monitoring,
19 surveillance, and sanitary surveys of public water systems to
20 ensure compliance with federal, state, and local regulations.

21 4. Participate in educational and training programs
22 relating to drinking water and public water systems.

23 (d) Require those county health departments designated
24 by the Department of Health and Rehabilitative Services as
25 having the capability of performing bacteriological analyses,
26 in addition to the duties prescribed in subsection (1)(b), to:

27 1. Perform bacteriological analyses of water samples
28 submitted for analysis.

29 2. Submit copies of the reports of such analyses to
30 the appropriate department district or subdistrict office.
31

1 (e) Make available to the central and branch
2 laboratories funds sufficient, to the maximum extent possible,
3 to carry out the public water supply functions and
4 responsibilities required of such laboratories as provided in
5 this section.

6 (f) Have general supervision and control over all
7 private water systems and all public water systems not covered
8 or included in this act.

9 (g) Assist state and local agencies in the
10 determination and investigation of suspected waterborne
11 disease outbreaks, including diseases associated with chemical
12 contaminants.

13 (h) Upon request, consult with and advise any county
14 or municipal authority as to water supply activities.

15 (2) Funds appropriated to support activities of county
16 health departments of the Department of Health and
17 Rehabilitative Services pursuant to this act shall be
18 deposited to the County Health Department Trust Fund and used
19 exclusively for the purposes of this act.

20 (3) The Department of Health and Rehabilitative
21 Services and the department shall coordinate their respective
22 budget requests for the fiscal year 1978-1979 and for
23 subsequent fiscal years to ensure that sufficient funding is
24 provided to the Department of Health and Rehabilitative
25 Services in order that it may carry out its public water
26 supply functions and responsibilities as provided in this
27 section. In the event the Department of Health and
28 Rehabilitative Services lacks sufficient funds in any fiscal
29 year such that it is unable to adequately carry out its public
30 water supply duties, an interagency agreement may be entered
31 into between the two departments in order to administratively

1 remedy, either through the transfer of funds or of services,
2 the lack of sufficient public water supply funds within the
3 Department of Health and Rehabilitative Services.

4 (4) If the department determines that a county health
5 department or other unit of the Department of Health and
6 Rehabilitative Services is not performing its public water
7 supply responsibilities satisfactorily, the secretary of the
8 department shall certify such determination in writing to the
9 Secretary of Health and Rehabilitative Services. The
10 Secretary of Health and Rehabilitative Services shall evaluate
11 the determination of the department and shall inform the
12 secretary of the department of his evaluation. Upon
13 concurrence, the Secretary of Health and Rehabilitative
14 Services shall take immediate corrective action.

15 (5) Nothing in this section shall serve to negate the
16 powers, duties, and responsibilities of the Secretary of
17 Health and Rehabilitative Services relating to the protection
18 of the public from the spread of communicable disease,
19 epidemics, and plagues.

20 Section 14. Section 403.863, Florida Statutes, is
21 created to read:

22 403.863 State public water supply laboratory
23 certification program.--

24 (1) Within 120 days of the effective date of this act,
25 the department and the Department of Health and Rehabilitative
26 Services shall jointly develop a state program, and the
27 Department of Health and Rehabilitative Services shall adopt
28 rules for the evaluation and certification of all laboratories
29 in the state, other than the principal state laboratory, which
30 perform or make application to perform analyses pursuant to
31 the Florida Safe Drinking Water Act. Such joint development

1 shall be funded in part through the use of a portion of the
2 State Public Water Systems Supervision Program grants received
3 by the department from the Federal Government in order to
4 implement the federal act.

5 (2) The Department of Health and Rehabilitative
6 Services shall have the responsibility for the operation and
7 implementation of the state laboratory certification program,
8 except that, upon completion of the evaluation and review of
9 the laboratory certification application, the evaluation shall
10 be forwarded, along with recommendations, to the department
11 for review and comment, prior to final approval or
12 disapproval.

13 (3) Any federal grant funds received by the department
14 for the operation and implementation of the state laboratory
15 certification program shall be transferred to the Department
16 of Health and Rehabilitative Services by interagency agreement
17 between the two departments. Such agreement shall require the
18 Department of Health and Rehabilitative Services to provide
19 the department with a quarterly accounting of the funds
20 transferred.

21 (4) Within 60 days of the effective date of the rules
22 adopted pursuant to this section, no laboratory in the state,
23 except the principal state laboratory, shall perform analyses
24 pursuant to the Florida Safe Drinking Water Act without having
25 applied for and received certification under the state
26 certification program to perform such analyses.

27 (5) For the purposes of this section, the term
28 "principal state laboratory" means the central laboratory of
29 the Department of Health and Rehabilitative Services.

30 (6) For the purposes of this section, the term
31 "certification" means regulatory recognition given to a

1 laboratory that performs analyses pursuant to the Florida Safe
2 Drinking Water Act that it meets minimal analytical
3 performance standards.

4 Section 15. Section 403.864, Florida Statutes, is
5 created to read:

6 403.864 Public water supply accounting program.--

7 (1) It is the intent of the Legislature to require a
8 yearly accounting of funds, overhead, personnel, and property
9 used by the department and the Department of Health and
10 Rehabilitative Services and its units, including each of the
11 county health departments, in conducting their respective
12 responsibilities for the state public water supply program.
13 Such accounting shall be presented to the Governor, the
14 President of the Senate, and the Speaker of the House of
15 Representatives by the department and the Department of Health
16 and Rehabilitative Services no later than February 1 of each
17 year. The first accounting shall be due by February 1, 1979
18 and shall cover the state fiscal year 1978-1979.

19 (2) In furtherance of this intent, the Department of
20 Health and Rehabilitative Services, the department, and the
21 Auditor General shall jointly develop an accounting program
22 for use by the department and the Department of Health and
23 Rehabilitative Services and its units, including the county
24 health departments, to determine the funds, overhead,
25 personnel, and property used by each of the departments in
26 conducting their respective public water supply functions and
27 responsibilities for each fiscal year. The accounting program
28 shall provide information sufficient to satisfy state auditing
29 and federal grant and aid reporting requirements and shall
30 include provisions requiring the Department of Health and
31 Rehabilitative Services to:

1 (a) Segregate, from an accounting standpoint, funds
2 distributed to county health departments for public water
3 supply functions from other county health department trust
4 funds;

5 (b) Segregate, from an accounting standpoint, funds
6 distributed to the central and branch laboratories of the
7 Department of Health and Rehabilitative Services for public
8 water supply functions from other laboratory funds.

9 (c) Require each county health department, the central
10 and each branch laboratory of the Department of Health and
11 Rehabilitative Services, and any other entity of the
12 Department of Health and Rehabilitative Services involved in
13 and carrying out public water supply functions to account to
14 the Department of Health and Rehabilitative Services on a
15 semiannual basis for the funds received, from whatever source,
16 and used for public water supply functions.

17 (d) Require each county health department, the central
18 and each branch laboratory of the Department of Health and
19 Rehabilitative Services, and any other entity of the
20 Department of Health and Rehabilitative Services involved in
21 carrying out public water supply functions either wholly or
22 partially with funds, either federal or state, received from
23 the department through an interagency agreement or other
24 means, to account to the department on a semiannual basis for
25 such funds received and used for public water supply
26 functions.

27 (3) The Department of Health and Rehabilitative
28 Services, the department, and the Auditor General shall
29 present a joint report on their development of the accounting
30 program, scheduled to start in fiscal year 1978-1979, to the
31 Governor, the President of the Senate, and the Speaker of the

1 House of Representatives no later than February 1, 1978. Such
2 report shall include, at least:

- 3 (a) The basic format of the program developed;
4 (b) An implementation schedule for the program; and
5 (c) An estimate, supported by data, on the number of
6 man-year's effort and the amount of funds, including overhead,
7 salaries, and property expenses, expended by the Department of
8 Health and Rehabilitative Services and its units, including
9 county health departments, on public water supply functions
10 and responsibilities required by the Department of Health and
11 Rehabilitative Services by the provisions of this act for
12 state fiscal year 1977-1978.

13 Section 16. Section 381.261, Florida Statutes, is
14 amended to read:

15 381.261 Supervision; private and certain public water
16 supply systems and individual sewage disposal systems.--The
17 Department Division of Health and Rehabilitative Services and
18 its agents shall have general supervision and control over all
19 private water systems, public water systems not covered or
20 included in the Florida Safe Drinking Water Act, ss. 403.350-
21 403.864, and individual sewage disposal systems and over those
22 aspects of the public water supply program for which it has
23 the duties and responsibilities provided for in ss. 403.862-
24 403.864 of-water-supply, sewerage, refuse and sewage treatment
25 in the state insofar as their adequacy, sanitary, and physical
26 conditions affect the public health.

27 Section 17. Section 381.291, Florida Statutes, is
28 amended to read:

29 381.291 Corrective orders; private and certain public
30 water systems and individual sewage disposal systems.--When
31 the Department Division of Health and Rehabilitative Services

1 or its agents, through investigation, find that any private
2 water system, public of water system not covered or included
3 in the Florida Safe Drinking Water Act, ss. 403.853-403.864
4 supply, sewerage, refuse or individual sewage disposal system
5 constitutes a nuisance or menace to the public health, it may
6 issue an order requiring the owner to correct the improper
7 condition.

8 Section 18. Subsections (3), (4), (5), (6), and (7)
9 are added to section 403.101, Florida Statutes, to read:

10 403.101 Classification and reporting; regulation of
11 operators of water purification and waste-water treatment
12 plants.--

13 (3) The department is authorized to establish
14 qualifications, to examine and certify all water and waste-
15 water treatment plant operators; to issue, deny, revoke, and
16 suspend annual operator certificates pursuant to its rules and
17 chapter 120; and to charge a fee, not in excess of \$10, for
18 examination, application processing, and issuance and renewal
19 of certification. Such fee shall be nonrefundable.

20 (4) No person shall perform the duties of operator of
21 a water or waste-water treatment plant unless he holds a
22 current operator's certificate issued by the department.
23 However, this section shall not apply to public lodging
24 establishments licensed under chapter 509. No owner of a
25 water or waste-water plant shall employ any person to perform
26 the duties of an operator unless such person possesses a valid
27 certificate at the required level of certification.

28 (5) All funds collected pursuant to this section shall
29 be deposited in the General Revenue Fund.

30 (6) The department may promulgate rules and minimum
31 standards to effectuate the provisions of this section and to

1 ensure efficient, hygienic water purification and waste-water
2 treatment operations in this state.

3 (7) For purposes of this section, "operator" means any
4 person, including the owner, who is principally engaged in and
5 is in charge of the actual operation, supervision, and
6 maintenance of a water purification plant or a waste-water
7 treatment plant, and shall include the person in charge of a
8 shift or period of operation during any part of the day. An
9 operator trainee may be employed as a trainee for no more than
10 2 years cumulatively.

11 Section 19. Sections 381.2611, 381.271, 381.281, and
12 381.293, Florida Statutes, are hereby repealed.

13 Section 20. If any provision of this act or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity shall not affect other provisions or
16 applications of the act which can be given effect without the
17 invalid provision or application, and to this end the
18 provisions of this act are declared severable.

19 Section 21. This act shall take effect July 1, 1977.
20
21
22
23
24
25
26
27
28
29
30
31

A PROPOSED RULE FOR THE CERTIFICATION
OF
WATER ANALYSIS LABORATORIES

(Preliminary Draft - September 2, 1977)

A WORKING DRAFT FOR THE
LABORATORY CERTIFICATION RULE

Policy and Intent

The responsibility of providing safe drinking water to the people of the state of Florida has been entrusted jointly to the Department of Environmental Regulation and Health and Rehabilitative Services by the Florida Safe Drinking Water Act (403.850-403.864).

The availability of laboratories capable of conducting reliable water analysis is an essential factor in conducting a successful drinking water program.

Analysis of water samples from all of the water supply systems in existence in the state might require the utilization of laboratories other than the state's public health laboratories. Data provided by laboratories other than those certified by EPA and operated by the state, can be accepted only after such laboratories have been evaluated and certified by the state's principal laboratory, which is already certified by EPA.

The purpose of this rule is to provide regulations for the evaluation, certification and, if necessary, the decertification of laboratories seeking to analyze water for the purpose of satisfying the requirements of the Florida Safe Drinking Water Act.

Definitions

Department: is the Department of Environmental Regulation which is charged with the primary responsibility of the administration of the Florida Safe Drinking Water Act.

The Act: is the Florida Safe Drinking Water Act, which is an act by the Florida Legislature creating S.S. 403.850-403.864, Florida Statutes.

Federal Act: is the Safe Drinking Water Act, Public Law 93-523.

Public Water System: Florida Statutes, as per [403.852(2)(a) & (b)].

Community Water Systems: Florida Statutes, as per [403.852(3)].

Non-Community Water Systems: Florida Statutes, as per [403.852(4)].

Supplier of Water: Florida Statutes, as per [403.852(8)].

Primary Drinking Water Regulations: Florida Statutes, as per [403.852(12)(a)(b)(c) 1. 2. (d) 1. 2.].

Secondary Drinking Water Regulations: Florida Statutes, as per [403.852(13)(a)(b) 1. 2.].

Sanitary Survey: Florida Statutes, as per [403.852(16)].

Commercial Laboratory: Any laboratory which performs water analysis on a fee or contract basis with the Department.

Principal Laboratories: Any state operated laboratory that has been evaluated and certified by EPA to conduct water analysis. The principal laboratory may in turn evaluate and certify other state and commercial laboratories seeking to perform water analysis.

Unacceptable Results: Results that vary by + 25% of the values determined by the state's principal laboratory for the purpose of quality control using unknowns or split samples.

Certification: is a written declaration by the Department that the personnel, building, equipment, methods of analysis, quality assurance mechanisms and record keeping and retrieval has all been evaluated and found satisfactory.

Decertification: is the withdrawal of certification by the Department due to loss of one or more of the criteria under which the laboratory was certified.

Recertification: is the reaffirmation of certification granted by the Department following correction by the laboratory of the criteria for which the laboratory was decertified.

Statutory Authority: The Florida Safe Drinking Water Act - S.B. 575 - SS 403.850-403.864.

Registration:

All laboratories seeking to analyze water for the purpose of satisfying the requirements of the Florida Safe Drinking Water Act, shall register with the Department for the purpose of application for licensure to perform water analysis.

Registration shall be subject to annual revision and renewal based on the satisfactory fulfillment of the certification requirements. Registration shall be provided at the time of the certification of the laboratory. The fee payed by the laboratory shall cover the cost of registration and certification.

Certification:

1. No person, firm, partnership, association, corporation, or political subdivision of a governmental agency shall operate a water testing laboratory for the purpose of satisfying the requirements of the Act without being certified by the Department.
2. Any person, firm, partnership, association, corporation or political subdivision of a governmental agency desiring certification may apply for such certification by a written request to the Department. The applicant shall set forth all the applicable information required by the Department, or any additional requirements deemed necessary for certification.
3. Categories of tests: the Department may certify a water testing laboratory for the performance of any one or any combination of the following parameters:

Bacteriology
General Chemistry
Organic Chemistry
Radiochemistry
Other individually specified tests

4. Prerequisites for Certification:

- a. Analytical methods used by the laboratory shall conform to those found in the latest pertinent issue of one or more of the following publications, which ever is most current.

Standard Methods for the Examination of Water and Wastewater.
Methods for Chemical Analysis of Waters and Wastes, EPA, as it appears in the latest pertinent Federal Register. The Annual Book of ASTM Standards.
Methods for Collection and Analysis of Water Samples, U.S. Geological Survey, or such other methods as may be approved by the Department.

b. Personnel Requirements:

Supervisory Staff:

Laboratory Director: The director may be any qualified person who supervises technical personnel on a full time basis, is responsible for the proper maintenance and conductance of the laboratory and for the compliance with these regulations. The director must have an advanced degree in the physical sciences and a minimum of five years experience with all of the procedures employed in the laboratory. A qualified director may be in charge of more than one laboratory, provided that there is a full time supervisor at each laboratory under his direction.

- c. Laboratory Supervisor: This person must have a minimum of a bachelor of science degree in the physical sciences, plus a minimum of two years experience in microbiology and analytical chemistry. The supervisor is responsible for the proper performance of all laboratory procedures and the reporting of the results.

Technical Staff: The personnel responsible for performing the analytical tests must be qualified by training or experience such as to provide reasonable assurance of high quality performance of the categories in which they have been qualified. The technical staff must have a minimum of a high school diploma plus two years of experience in the procedures they are responsible for.

The supervisory as well as the technical staff may be requested by the Department to undergo an examination administered by the Principal Laboratory for the purpose of licensure.

Registration by nationally recognized certifying boards may be accepted by the Department in lieu of examinations administered by the Principal Laboratory.

Physical Facilities: Equipment and related appurtenances employed for water analysis shall be adequate for accuracy and precision. Adequate safeguards to protect the health and safety of personnel shall be installed.

Analytical Procedures: Methods of analysis, data reporting, record keeping and retrieval systems shall be reliable and shall meet the Department's specifications as set under prerequisite [V -4(a)] of this rule.

Quality Control: The laboratory seeking certification shall design a quality control system, subject to approval by the Department, for the purpose of eliminating the possibility of analytical errors and to detect such errors if and when they do occur. The quality of analysis is controlled by periodical performance evaluations or split samples as deemed necessary by the Department or the principal laboratory. Satisfactory analysis shall be within two standard deviations of the mean of all analyses done on that sample.

Inspection:

1. Application for Certification or Certification Renewal

Each laboratory certification to perform water analysis shall submit a written application to the Department for certification in any one or all of the water analysis procedures. Each application shall be reviewed to determine that all of the prerequisites for certification [V - 4(a)] have been satisfied.

2. Laboratory Inspection: Within 90 days of receiving a completed and proper application, and prior to issuance of certification or certification renewal, the Department shall assign a specialist or a team of specialists, in the criterion or criteria to be evaluated, to visit the laboratory for the purpose of evaluating the laboratory for the criterion (criteria) for which it is seeking certification. These visits may be conducted on a quarterly basis or any other periods as required and deemed necessary by the Department for compliance with these regulations.

Based on such visits, certification may be granted, conditionally granted, or denied as detailed below:

- a. Granted Certification: In the absence of deficiencies, certification shall be issued by the Department for each of the applicable criteria evaluated. The certificate shall specify the nature and scope of laboratory work for which approval is granted. Upon receipt of the certification, the laboratory director shall sign an acknowledgement and acceptance of the terms of approval. The certificate shall be displayed in a prominent place in the laboratory at all times.

- b. Conditional Certification: Certification may be granted upon the condition that correction of certain deficiencies as determined by the evaluation visit, shall take place within 30 days of issuance of the conditional approval.
- c. Denial of Certification: Certification may be denied due to the presence of substantial deficiencies in personnel qualification, procedures or equipment. The laboratory may reapply for certification when such deficiencies are corrected.
- 3. Duration of Certification: Certification shall be valid for three years from the date of issue, unless modified or revoked by the Department.
- 4. Maintenance of Certification: In order for the certified laboratory to maintain its status it must agree to undertake the following:
 - a. Analyze not less than three samples per year submitted by the principal laboratory as unknowns in the applicable criteria.
 - b. At the Department's discretion, and without prior notification of the certified laboratory, a laboratory may be instructed to split a sample or a number of samples into two equal portions; one portion to be analyzed by the laboratory and the other by the Principal Laboratory. This is done for the purpose of quality assurance of the analysis.
 - c. The certified laboratory is subject at all times, during its certification period, to periodic inspection by the Department and without prior notification.
 - d. The Department, in cooperation with the certified laboratories, shall maintain a list of the certified laboratories and the criteria for which they have been certified. The list shall be revised quarterly.
 - e. Changes in the laboratory status: Any changes in the laboratory location, personnel, staffing patterns, source of water samples or any other factors that might alter, modify or in any way negatively affect the ability of the laboratory to perform in accordance with the terms under which it was certified, shall be reported to the Department within 10 days of the occurrence of such changes.

5. Certification Renewal

Application for certification renewal shall be made to the Department no later than 90 days prior to the expiration of a current certificate. Approval of a renewal application shall be contingent upon the laboratory's satisfaction of all of the conditions considered in granting the original certificate. The period of renewal certification shall be for the duration of three years beginning on the date of issue.

6. Fees

- a. Upon application for certification or certification renewal, the laboratory shall submit a fee of 10 dollars payable to the Department for each criteria for which certification is requested.
- b. Annual fees, upon issuance of a certification or certification renewal, the laboratory shall pay to the Department an annual fee of 50 dollars. Such fees as in (a) and (b) above shall be used to offset costs incurred by the administration and maintenance of certification and quality control. These fees are subject to modification as dictated by the economic fluctuation.

Decertification

1. A water analysis laboratory certification may be denied, revoked, suspended, limited, annulled or renewal denied for any of all of the following reasons:
 - a. Making false statements on an application for certification or on any document associated with certification.
 - b. Permitting unauthorized personnel to perform analysis.
 - c. Conducting and reporting the results of analysis for which the laboratory has not been certified.
 - d. Falsifying the results of an analysis.
 - e. Knowingly lending the use of the name of the licensed laboratory or its director to an unlicensed laboratory for the purpose of performing water analysis.
 - f. Failure to notify the Department of changes in the laboratory location, personnel or procedures.

- g. Failure to maintain the facilities, records, personnel or equipment, or meet the established standards in performance evaluation or refusal to take part in quality control programs.
- h. Failure to pay the prescribed fees associated with certification and maintenance of certification.
- i. Indulge in conduct detrimental to the public health or the welfare and safety of the people of the State of Florida.
- j. Violating or aiding and abetting in the violation of any provision of these regulations or the rules promulgated hereunder.

2. Criteria Decertification

A laboratory may be decertified from performing one or more specific analyses by failing to:

- a. Obtain acceptable results on two consecutive unknowns or split samples with the principal laboratory.
- b. Submit a split sample or accept unknowns for the purpose of quality control.
- c. Use approved methods of analysis.
- d. Report results of quality control analysis within the prescribed time.

Upon the receipt by the Principal laboratory of unacceptable results of unknown or split samples, the Principal laboratory shall supply the laboratory with a "repeat" sample within a period of not more than 15 days.

Recertification

- 1. A laboratory decertified because of any of the reasons listed under (VII) above may be recertified after showing to the Department's satisfaction that it has rectified the reasons that caused decertification.

2. A laboratory decertified for reasons of falsification of analysis results, personnel qualification, or any other ethical misconduct may not be considered for recertification for one year period, after which consideration for recertification shall be dependent upon the satisfactory demonstration by the decertified laboratory that all the causes for decertification have been eliminated.

Appeals

In any case where certification or renewal of certification is denied a laboratory or where decertification is deemed necessary by the Department, the affected laboratory may appeal to the Department Secretary or his delegate for a hearing. Upon receipt of such a request, the Secretary shall convene a hearing according to Chapter 120, Florida Statutes.

Out of State Laboratories: In the event that the services of such laboratories are needed, all the conditions for laboratory certification, decertification, certification renewals and appeals (V, VI, VII, VIII and IX) above, shall apply to the out of state laboratory. Such laboratories shall bear the costs incurred in the process of certification and maintenance of certification.

Administration

The Secretary of the Department or his delegates shall have the authority to issue certification, reject application for certification, to renew certification, to issue recertification and impose decertification upon the recommendations of the principal laboratory which is charged with conducting the actual steps of the above activities.

21



22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

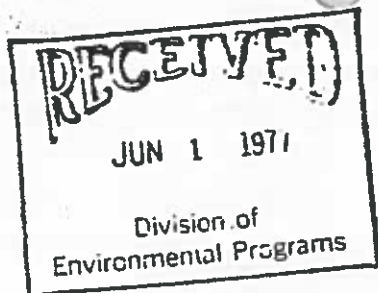
37

38

39

40

41



MAY 25 1977

EXHIBIT D

Dept. Of Environmental Regulation
RECEIVED

MAY 31 1977

OFFICE OF SECRETARY

Mr. Joseph W. Landers, Jr., Secretary
Florida Department of Environmental Regulation
2562 Executive Center Circle, E.
Tallahassee, Florida 32301

Dear Mr. Landers:

This is to advise you that the following principal water supply laboratories and laboratory officers have been given interim approval by EPA:

Laboratories:

Department of Health and Rehabilitative Services
Laboratory Services
Jacksonville, FL - Chemistry, Microbiology

Florida Radiological Health Laboratory
Orlando, FL - Radiochemistry

Officers:

Dr. Ming Chan (Chemistry)
Florida Department of Rehabilitative Services

Mr. Augustus Ruser (Microbiology)
Florida Department of Rehabilitative Services

Mr. Benjamin Prewitt (Radiochemistry)
Florida Radiological Health Laboratory

Division of Environmental Programs	
Bureau of Drinking Water & Special Programs	
RECEIVED	
JUN 2 1977	
Administrator _____	Ref. To: _____
<input type="checkbox"/> DW	<input type="checkbox"/> Geny
<input type="checkbox"/> SW	<input type="checkbox"/> Noise
<input type="checkbox"/> TPT	<input type="checkbox"/> Files <input type="checkbox"/> Other

The National Interim Primary Drinking Water Regulations require that water purveyors obtain analyses from principal State laboratories or other laboratories approved by the State or EPA depending upon which has primary enforcement responsibility (Primacy). These laboratories must adhere to methodology prescribed by the regulations or EPA-approved alternate methods. Therefore, if you have not already done so, you will need to compile a list of laboratories in your State which will need approval. It is necessary that all laboratories doing

(2)

microbiological and turbidity determinations be approved prior to June 24, 1977. Chemical laboratories, if any, may be approved somewhat later if so desired.

Since June 24 is barely a month away, it appears that Florida will not have primacy on that date. Therefore, it will be necessary for the State to submit a proposed laboratory approval list to this office for concurrence. The list should include reference to any previous State approval or certification and include your recommendations for interim approval under the Safe Drinking Water Act. We realize that time is of the essence and promise to act as quickly as possible on your submittal.

Your assistance and cooperation in making this interim period a smooth transition toward primacy is appreciated.

Sincerely yours,

/s/ John A. Little
Deputy Regional Administrator

Jack E. Ravan
Regional Administrator

bc: Ralph H. Baker, Jr.
Joel Veater
Bobby Carroll

Survey Report of the
Bacteriological Examination of Water
at the
Central Laboratory Services
Florida Department of Health & Rehabilitative Services
1217 Pearl St.
Jacksonville, Florida 32201
July 27-28, 1976
by
Edwin E. Geldreich
Consulting Bacteriologist
Water Supply Division
Water Programs Operations
Office of Water and Hazardous Materials
U.S. Environmental Protection Agency
Cincinnati, Ohio 45268

The equipment and procedures employed in the bacteriological analysis of water by this laboratory conformed with the provisions of Standard Methods for the Examination of Water and Wastewater (14th edition, 1976) and with the provisions of the Federal Drinking Water Standards (December 24, 1975), except for the items marked with a cross "X" on the accompanying survey form (EPA-103). Items marked "0" do not apply to the procedures programmed in this laboratory. Specific deviations are described, and appropriate remedial action for compliance is given in the following recommendations:

Deviations

4. Sample Transit Time

Although this laboratory has an excellent record for short transit times on potable water, several samples were still being accepted for testing, even though the sample transit time was 4 days. Data obtained from these analyses is unreliable because there will be significant and unpredictable shifts in the bacterial population. These shifts in density may be higher in waters with suitable nutrients (carbon and nitrogen substances) or lower in waters with heavy metals, phenolic compounds and other toxic industrial wastes. Until a solution to this excessive transit time for public water samples is achieved, the laboratory is urged to stamp such data records with a statement noting the questionable reliability of such information and absolving the laboratory service from possible legal responsibility.

6. Laboratory Evaluation Service

The Bureau of Laboratories, Florida Department of Health and Rehabilitative Services currently administrates the State Water laboratory survey program through their central laboratory located in Jacksonville, Florida. Water laboratories covered in this State program include State branch laboratories, county, city health departments, water treatment plants, plus two large industrial plants all of which are involved in the bacteriological examination of potable waters. A review of the program activity performed by Mr. Augustus Ruser, state laboratory survey officer, indicates 65 laboratories have an approved status while 9 others are scheduled for initial survey or resurvey soon (Table 1). Approval is reviewed on an approximate three year basis as part of the continuing programs to insure acceptable data within the framework of Standard Methods. However, a check of the current survey reports indicates 2 city-county health laboratories, 24 water treatment plant laboratories and one industrial laboratory are past due for a return on-site evaluation of their status. Reorganization in the state governmental agencies dealing with various aspects of the water programs and funding for the laboratory evaluation service have caused some of the delay in maintaining the on-going program.

6.1
20
34
3
—
63
+ Jx
141

TABLE 1
Current Evaluation Status for Water Laboratories in Florida

Laboratory	Survey Date	Status	Survey Officer
<u>Florida Regional Laboratories</u>			
West Palm Beach (Lantana)	Jan. 22, 1975	Approved	A. Ruser
Miami	Mar 16, 1976	"	"
Orlando	Sept 19, 1974	"	"
Pensacola	Dec. 9, 1975	"	"
Tallahassee	Apr. 3, 1974	"	"
Tampa	Apr. 5, 1976	"	"

TABLE 1

<u>City - County Health Laboratories</u>	<u>Survey Date</u>	<u>Status</u>	<u>Survey Officer</u>
Manatee Co. Health Dept	Apr 7, 1976	Approved	A. Ruser
Jacksonville City Lab	Nov 26, 1975	"	"
Brevard Co. Health Dept, Rockledge	May 30, 1974	"	"
Pinellas Co. Health Dept., St. Petersburg	Jul 21, 1976	"	"
Polk Co. Health Dept. Winter Haven	Aug 2, 1972	"	"
Sarasota Co. Health Dept.	Sept 17, 1974	"	"
Citrus Co. Health Dept.	Mar 17, 1975	"	"
Levy Co. Health Dept.	Sept 11, 1975	"	"
Lee Co. Health Dept.	Sept 23, 1975	"	"
Charlotte Co. Health Dept.	Apr 8, 1976	"	"
Highland Co. Health Dept.	May 25, 1976	"	"
Shaker-Hendry Co. Health Dept.	May 26, 1976	"	"
Jacksonville Envir. Labs.	Nov. 6, 1975	"	"
St. Johns Co. Health Dept.	Jul 6, 1971	"	"

<u>Laboratory</u>	<u>Survey Date</u>	<u>Status</u>	<u>Survey Officer</u>
<u>Water Treatment Plant Laboratories</u>			
Bradenton	Jul 27, 1971	"	A. Ruser
Cape Coral	Jul 30, 1971	"	"
Cocoa	Apr 25, 1972	"	"
Daytona Beach	Apr 24, 1972	"	"
Dixie WTP, Ft Lauderdale	Oct 20, 1970	"	"
Ft. Myers	Jul 24, 1975	"	"
Henry H. Sahn WTP, Ft. Pierce	Apr 27, 1972	"	"

TABLE 1

Laboratory	Survey Date	Status	Survey Officer
<u>Water Treatment Plant Laboratories</u>			
Lakeland	Nov. 11, 1971	Approved	A. Ruser
Melbourne WTP	Apr. 26, 1972	"	"
Naples	Jul 9, 1973	"	"
Casino	Jul 22, 1976	"	"
Utilities Comm., Orlando	Nov 12, 1971	"	"
Panama City	Sept 12, 1972	"	"
Bay Co. WTP, Panama City	Sept 12, 1972	"	"
Port St. Joe	Sept 12, 1972	"	"
Riviera Beach	Dec 11, 1970	"	"
Sarasota	Jul 28, 1971	"	"
Tampa	Jul 22, 1976	"	"
West Palm Beach	Jul 13, 1970	"	"
Pahakee	Jul 17, 1970	"	"
Pratt Whitney WTP, Lake Worth	Jul 17, 1970	"	"
Mario Island	Aug 12, 1970	"	"
Miraman	Oct 20, 1970	"	"
Miami	Feb 22, 1972	"	"
Pompano Beach	Oct 22, 1970	"	"
Florida Utilities, Winter Pk.	Dec 2, 1970	"	"
North Miami	Feb 25, 1972	"	"
Titusville	Apr 24, 1972	"	"
Port Charlotte	Jul 13, 1973	"	"
Punta Gorda	Jul 13, 1973	"	"
Manatee Co. Utilities	Sep 25, 1975	"	"

TABLE 1

<u>Laboratory</u>	<u>Survey Date</u>	<u>Status</u>	<u>Survey Officer</u>
-------------------	--------------------	---------------	-----------------------

Water Treatment Plant Laboratories

Vero Beach Utilities	Nov. 21, 1975	Approved	A. Ruser
St. Augustine	Mar. 9, 1976	"	"
Belle Glade	May 27, 1976	"	"

Industrial Laboratories

U. S. Sugar Company

Bryant Mills	Dec. 7, 1970	"	"
Clewiston	May 27, 1976	"	"

11. Autoclave Sterilization Temperature

Time and temperature are very critical in the application of steam sterilization to media containing carbohydrates. Excessive exposure of sugars, especially lactose, to heat may result in hydrolysis and/or caramelization that, in turn, will give false-positive reactions with some noncoliform bacteria. Additionally, in media containing carbohydrates, amino acids, peptides, bile salts and dyes, other products may be formed that are toxic to bacteria. Increasing the sterilization temperature may also be the source of difficulty in achieving the 99 ml (+ 2 ml) dilution volumes required for sterile blanks. For these reasons, the American cyclomatic sterilizer used in the media preparation unit, needs to be readjusted for a maximum temperature plateau of 121° C during the 15 minute sterilization cycle. At the present time, the recording temperature indicates this temperature plateau was set at 124° C. A call for company service to readjust the temperature plateau for this American cyclomatic sterilizer was made during the date of this survey.

25. Plastic Petri Dish Reuse

Plastic petri dishes may be reused provided they are adequately cleaned and resterilized either by UV or 70 percent ethanol. Present practice is to clean the petri dishes, reassemble the sections and place them back in service, without sterilization. Failure to apply the fundamental sterilization principle to the culture dishes has produced a medium contamination in the absorbent pad substrate below the membrane filter cultures that can adversely affect the recovery of coliforms. The profuse growth of contaminants in the substrate during incubation of MF cultures has caused the medium to turn a dark red color, contributing to a poor differentiation of coliform colonies, and unnecessary competition among the bacterial population entrapped on the membrane filter. Therefore, it

is imperative that when plastic disposable petri dishes are to be reused, these items must not only be adequately washed and rinsed but also sterilized prior to their use.

Plastic culture dishes may be sterilized by soaking individual top and bottom sections in 70 percent ethanol for 30 minutes, then placing these parts on a clean towel to drain and air dry before reassembly. A more convenient approach is to expose the interior portion of these dishes to ultra violet radiation for 5 minutes, then reassemble for storage or immediate use.

When these sterilization procedures are used, it would be necessary to select one plate from each batch sterilized for use as a sterilization control. Standard Plate Count agar is added to the dish, mixed by gentle rotation, solidified, then incubated at 35° C for 48 hours. No bacterial growth should appear on the control plate if sterilization was accomplished in the procedure chosen.

29. Detergent Suitability :

The bacteriologist is responsible for demonstrating that washed glassware is free of toxic or inhibitory residual resulting from the detergent used in the washing procedure. At the present time, glassware washing procedures use a commercial detergent labeled "Detergent 101." This product has not been submitted to a detergent suitability test although clean glassware is spot checked for freedom from excessive acidity or alkalinity using the indicator, methylene blue. The test for suitability should be performed with glass Petri dishes as described in Standard Methods, 14th edition, page 885 or in the EPA Handbook for Evaluating Water Bacteriological Laboratories, 2nd edition, pages 57-58.

32. Buffered Dilution or Rinse Water

When turbidity due to microbial contamination is observed in the stock buffer, fresh stock buffer solution should be prepared. Such turbidity may be caused by many different kinds of organisms (bacteria, yeast, fungi). These organisms are capable of survival and growth in the presence of the minimal concentrations of nutrients present in buffered dilution water. Microbiological analysis of contaminated stock buffer solution generally shows large numbers of Pseudomonas and Achromobacter species. Once species of Pseudomonas have become established in the stock buffer solution, their antagonistic, heat stable, metabolic by-products could adversely affect test results, through their occurrence in the finished dilution blanks or in use as rinse water in the MF procedure.

Place 25 to 30 ml portions of freshly prepared, sterilized (by MF filtration) stock buffer solution into previously sterilized screw-cap test tubes; or place the same amount buffer solution in screw-cap test tubes and autoclave the solution and tubes for 15 minutes at 121° C. Store the sterilized tubes and solution at 5° to 10° C. Sterile stock buffer is then available in small volumes as needed and if chance contamination should occur during the removal

of stock buffer, only a small volume of stock buffer solution from a single tube needs to be discarded. A similar approach can be used to store the stock magnesium sulfate solution used in conjunction with stock buffer and distilled water to make buffered dilution water, as described in the 14th edition of Standard Methods.

The volume of sterile dilution water in each 99 ml dilution blank must be within ± 2 ml of this amount after sterilization and during storage prior to use. A check of 5 dilution blanks, selected at random, for volume contained revealed amounts of 94.0, 95.9, 95.0, 96.5, and 99 ml. This excessive error in content may be due to inaccurate dispensing of a bulk supply of dilution water from the automatic pipetter during preparation. To achieve this desired tolerance and recognizing that there is some loss of water through evaporation, most laboratories have found that 102 ml must be dispensed to each dilution bottle to obtain a final 99 ml volume after sterilization. However, the total volume dispensed during preparation of dilution blanks may vary from the suggested 102 ml amount, being related to individual characteristics of the autoclave, including sterilization time-temperature and rapidity of pressure release in the exhaust cycle.

In this instance, either the amount of dilution water being dispensed by the automatic pipetter is inaccurate, the 124°C temperature plateau during sterilization or the exhaust cycle in autoclaving is too rapid. This latter event will cause excessive boil over of the sterile dilution water prior to its removal from the autoclave.

33. Media pH Records

The pH of all batches of culture media should be checked after sterilization and the pH of each batch recorded with the date and medium lot number in a permanent log. While pH records are available for inspection, no identifying lot numbers or technician initials are included to trace back any specific problems encountered in this quality control procedure.

52. Verification of Coliforms in Public Waters

When coliforms are found in potable water samples, a rapid alert and request for repeat sampling at the same sampling locations should be initiated. However, these cultures should be retained until subject to the verification procedure since synergistic false positive coliform reactions on Endo media may occur. This supplemental procedure consists of transferring each coliform colony to lactose or lauryl tryptose broth, (LTB), then to brilliant green lactose broth (BGLB) for evidence of gas production at 35 C within the 48 hour limit. If all coliform type colonies cannot be transferred, a random selection of at least 5 sheen colonies should be verified. A calculation of the percent of colonies verified as

coliforms is determined from the number of BGLB cultures that produce gas within 48 hours at 25 C. Then this percent figure is used to adjust the final count to a verified coliform density per 100 ml on the report.

This verification procedure will provide useful reinforcement of the laboratory findings in any legal action involving records subpoenaed for court use and in decisions pertaining to reclassification of interstate carrier water supply systems. The verification procedure is also an essential part of technician self-training in accurate coliform development, particularly of those MF cultures which exhibit poor sheen development because of sample turbidity and spreading films of bacterial growth. The inexperienced technician frequently finds the deep red colonies difficult to classify, especially where the presence or absence of a metallic sheen is the only distinguishing characteristic. In some instances, technicians have confused true colony sheen with mirror reflection of fluorescent tubes in the microscope lamp on the moist shiny surface of pink or red colonies. This confusion is greatest with the development of dark red colonies with granulated surfaces which reflect diffused light similarly to a sheen colony. Water condensate droplets and turbidity particles combined with this mirror reflection have also frequently been classified as coliform bacteria by the novice technician. This problem of proper coliform discernment by a new technician is solved only by actual practice and experience in the counting of colonies, supported by the verification procedure.

REMARKS

A. Membrane Filter Medium

Growth of bacteria entrapped on the MF surface may receive nutrients from a broth saturated absorbent pad or the same medium formulated in 1.5 percent agar. When a liquid culture medium is preferred, the absorbent pad substrate material must be of high quality paper fibers, uniformly absorbent and free of sulfites, acid or other substances that could inhibit bacterial growth. Recent quality control testing of absorbent pads supplied with membrane filters of various manufacturers demonstrated a significant reduction in colony counts and colony size associated with the use of the absorbent pad substrate in comparison to the same media prepared in a 1.5 percent agar base. Until the absorbent paper quality improves to remove residual bleaching agents and acidities, the laboratory will find it necessary to flush out these toxic residuals by pre-soaking pads in distilled water held at 121 C for 15 minutes in the autoclave, decanting the rinse water, and repackaging pads in large petri dishes for sterilization at 121 C for 15 minutes, using a rapid exhaust to quick-dry the pads.

B. Quality Control Program

A formal, written program for laboratory quality control should be maintained and available for review. The laboratory director and analyst should participate in the establishment and structuring of protocols and a record book to document procedures and data on reference and performance sample tests, duplicate analyses, parallel testing, MF verification checks, sterility controls, positive control samples, and technician counting proficiency. The following comments are some suggestions to guide the laboratory in a development of their quality control program.

1. Reference and Performance Samples

The laboratory must analyze known reference and unknown samples (when available through EPA) for total coliform, on a once a year basis. Results of such tests must be within two standard deviations of precision for the specific method.

2. Duplicate Sample

Duplicate analyses should be done on known positive samples, not to exceed 10 percent of the samples analyzed or a minimum of one per month. The duplicates may be run as a split sample by more than one analyst.

3. Check Analyses by State Laboratories

A minimum of 5 to 10% of the official water supply samples normally processed by the local laboratory should be analyzed by the state laboratory.

4. Verification of MF Colonies

All public water supply samples with positive coliform colonies on the MF test must be verified. Verify a random selection of at least ten sheen colonies. The laboratory should make every effort to detect coliforms from samples with excessive non-coliforms on the membrane filter. Any sheen colonies appearing in mixed confluent growth must be verified.

5. MF Sterility Controls

Sterility controls on the UV sterilization procedure for MF funnels and rinse water should be performed with each series of samples.

6. Technician Counting Proficiency

At least once per month two or more analysts should count the sheen colonies on a membrane, all colonies on the membrane then being verified, and the analyst's counts compared to the verified count for agreement.

7. Confirmed MPN Test

If the laboratory has elected to use the MPN test on water supplies that have a continued history of confluent growth or TNTC with the MF procedure, presumptive tubes of heavy growth but no gas production should be submitted to the Confirmed Test to check for the suppression of coliforms. This control procedure should be carried out on one sample from each of these problem water supplies every three months.

8. Completed MPN Test

The MPN test is carried to completion on 10 percent of all positive confirmed samples on a regular basis. If insufficient positive tubes result from potable water samples, perform the completed test on positive source waters.

C. Quality Control Reports

A bound written record must be maintained on media, materials and equipment and be available for inspection. Quality control records on materials and equipment are completed by entering information on the unit checked, the results of the check and the initials of the person making the check. Key areas involving quality control on laboratory media, equipment and supplies include the following:

Check daily operating temperature of incubators, waterbaths, hot air ovens, refrigerators and autoclaves and adjust the controls as needed. The autoclave is also checked for pressure. All temperature and pressure readouts are recorded in a bound book, or continuous recorders are used.

The following quality assurance checks are recorded: balances are calibrated; thermometers are certified; pH meters are standardized daily; and analyses for quality of the laboratory pure water are made. *documented*

Records are available for inspection on the following quality control checks for media: dating of bottles on receipt and when opened, chemicals of analytical reagent grade, dyes certified for bacteriological use, and pH of prepared media.

For media the use of positive and negative cultures and comparative testing for recovery and performance with a previous acceptable lot are recommended.

The following are recommendations on media purchase and shelf life: Media are ordered on a basis of twelve month needs. Media are purchased in 1/4 lb. bottles to extend shelf life except those used in

very large amounts. Bottles of media are used within six months after opening. The shelf life of unopened bottles must not exceed two years.

Membrane filters are the type recommended by the manufacturer for water analysis. Lot number of membrane filters and dates of receipt are recorded. Comparative testing for recovery and performance with a previous acceptable lot is recommended.

Heat sensitive tapes which develop the word STERILE after autoclaving are used on materials.

Spore tabs and other sterility check cultures are recommended.

Personnel Approved

The following laboratory personnel are approved for the application of the total coliform membrane filter test or the multiple tube test and the standard plate count procedure to the examination of potable water. These same staff members are also approved for the application of the fecal coliform multiple tube test to a variety of raw source waters used for public supply intake and treatment:

Mr. Augustus Ruser
Mrs. Mildred Appleby
Mrs. Kathleen Foster
Mrs. Ida Holcomb

Conclusions

The procedures and equipment in use at the time of the survey compiled in general with the provisions of Standard Methods for the Examination of Water and Wastewater (14th edition, 1976) and the Federal Drinking Water Standards, (December 24, 1975), and with correction of deviations listed, it is recommended that the results of bacteriological examinations made by the laboratory be accepted as official data defined by the Safe Drinking Water Act (Public Law 93-523, December 16, 1974.)


Consulting Bacteriologist

ENVIRONMENTAL PROTECTION AGENCY

Water Quality Office
Water Hygiene Division
Bacteriological Survey for
Water Laboratories

Indicating conformity with the 13th
edition of Standard Methods for the
Examination of Water and Waste-
water (1971).

Survey By	Edwin E. Geldreich	X = Deviation	U = Undetermined
		O = Not Used	
Laboratory	Central Lab. Services, Florida Department Health & Rehabilitative Services	Location	Date
		1217 Pearl Street Jacksonville, Fla. 32201	July 27-28, 1976

Sampling and Monitoring Response

1. Location and Frequency

Representative points on system.
Frequency of sampling adequate.

2. Collection Procedure

Faucets with aerators should not be used.
Flush tap 1 min. prior to sampling
Pump well 1 min. to waste prior to sampling
River, stream, lake, or reservoir sampled at least
6 inches below surface and toward current.
Minimum sample not less than 100 ml
Ample air space in bottle for mixing.
Promptly identify sample legibly and indelibly

3. Sample Bottles

Wide mouth, glass or plastic bottles of 250 ml capacity.
Sample bottles capable of sterilization and rinse
Closure:
a. Glass stoppered bottles protected with metal foil,
rubberized cloth or kraft type paper
b. Metal or plastic screw cap with leakproof liner
Sodium thiosulfate added for dechlorination.
Concentration 100 mg/l added before sterilization
Chelation agent for stream samples (optional). 0
Concentration 372 mg/l added before sterilization

4. Transportation and Storage

Complete and accurate data accompanies sample
Transit time for potable water samples should not exceed X
48 hrs, preferably within 30 hrs (Several samples 4 days old
Transit time for source waters, reservoirs, and natural
bathing waters should not exceed 6 hrs
All samples examined within 2 hours of arrival

Laboratory Central Lab. Services, Location Date
Florida Department Health & Rehabilitative 1217 Pearl Street July 27-28,
Services Jacksonville, Fla. 32201 1975

4. Transportation and Storage (Continued)

Sample refrigeration mandatory on stream samples,
optional on potable water samples.

5. Record of Laboratory Examination

Results assembled and available for inspection

Number of Tests per year National Parks, Streams, Lakes,

MPN Test - Type of sample Shellfish Waters

Confirmed (+) _____ (-) _____ (Total) 2,276

Completed (+) _____ (-) _____ (Total) _____

MF Test - Type of sample Potable Waters

Direct Count (+) _____ (-) _____ (Total) 28,548

Verified Count (+) _____ (-) _____ (Total) _____

Data processed rapidly through laboratory and engineering sections.

Unsatisfactory sample defined as 3 or more positive tubes per

MPN test or 5 or more colonies per 100 ml in MF test

High priority placed on alerting operator to unsatisfactory

potable water results

Prompt resampling for unsatisfactory samples

6. Laboratory Evaluation Service

State program to evaluate all laboratories which examine
potable water supplies.

Frequency of surveys on a 3 year basis. X

State survey officer (Name) Augustus Ruser

Status of laboratory evaluation service.

Total 65 labs known to examine water

56 approved laboratories

0 provisional laboratories

9 to be scheduled for survey soon.

Laboratory Apparatus

7. Incubator

Manufacturer Labline* Model 554, Ser. 822

Sufficient size for daily work load

Maintain uniform temperature in all parts ($\pm 0.5^{\circ}\text{C}$)

Accurate thermometer with bulb immersed in liquid on

top and bottom shelves.

Daily record of temperature or use of recording thermometer

sensitive to 0.5°C change

Incubator not subject to excessive room temperature variations

beyond a range of $50 - 80^{\circ}\text{F}$

Laboratory Central Lab. Services, Location Date
 Florida Department Health & Rehabilitative 1217 Pearl Street July 27-28
 Services Jacksonville, Fla. 32201 1970

3. Incubator Room (Optional) Manufacturer

Well insulated, equipped with properly distributed heating
 and humidifying units for optimum environmental control. 0
 Shelf areas used for incubation must conform to 35°C ± 0.5°
 temperature requirement.
 Accurate thermometers with bulb immersed in liquid.
 Daily record of temperature at selected areas or use
 recording thermometer sensitive to 0.5°C changes

4. Water Bath

Manufacturer	Precision	Model	Rebuilt *
Sufficient size for fecal coliform tests			
Maintain uniform temperature 44.5°C ± 0.2°C. :			
Accurate thermometer immersed in water bath			
Daily record of temperature or use of recording thermometer sensitive to 0.2°C changes			

* Thermistor temp. control & modified for circulation

5. Hot Air Sterilizing Oven

Manufacturer	Hotpack	Model	Ser. H.D. 21089
Size sufficient to prevent crowding of interior			
Constructed to insure a stable sterilizing temperature			
Equipped with accurate thermometer in range of 160-180°C or with recording thermometer			

6. Autoclave

Manufacturer	American	Model	Cyclomatic
Size sufficient to prevent crowding of interior			
Constructed to provide uniform temperature up to and including 121°C X			
Equipped with accurate thermometer with bulb properly located to register minimal temperature within chamber			
Pressure gage and operational safety valve			
Steam source from saturated steam line, or from gas or electrically heated steam generator			
Reach sterilization temperature in 30 min.			
Pressure cooker may be used only if provided with a pressure gage and thermometer with bulb 1 in. above water level 0			

7. Thermometers

Accuracy checked with thermometer certified by National
 Bureau of Standards or one of equivalent accuracy. **
 Liquid column free of discontinuous sections and graduation
 marks legible

** ASTM 63C GMS USA 7E6514
 ASTM 64C TAG USAB 7561 25-55°C
 ASTM 65C CMS USA 7E6488 50-80°C
 EPA-103 (Cin)

Laboratory Central Lab Services,
Florida Department Health & Rehabilitative
Services

Location
1217 Pearl Street
Jacksonville, Fla 32201

Date
July 27-28
1976

13. pH Meter

Manufacturer Corning Model 5

Electronic pH meter accurate to 0.1 pH units.

14. Balance

Balance with 2 g sensitivity at 150 g load used for general
media preparations, Type Mettler P1200

Analytical balance with 1 mg sensitivity at 10 g load used
for weighing quantities less than 2 g, Type

Appropriate weights of good quality for each balance

15. Microscope and Lamp

10

Preferably binocular wide field, 8x to 15 diameters magnifi-
cation for MF colony counts, Type Spencer

Fluorescent light source for sheen discernment.

16. Colony Count

Quebec colony counter, dark-field model preferred for
standard plate counts

17. Inoculating Equipment

Wire loop of 22 or 24 gauge chromel, nichrome, or platinum
iridium, sterilized by flame

Single-service transfer loops of aluminum or stainless steel, pre-
sterilized by dry heat or steam.

Disposable single service hardwood applicators, pre-
sterilized by dry heat only.

18. Membrane Filtration Units

Manufacturer Millipore Type Glass

Leak proof during filtration.

Metal plating not worn to expose base metal

19. Membrane filters

Manufacturer Millipore (HA) Type Single Service

Full bacterial retention, satisfactory filtration speed

Stable in use, glycerin free.

Grid marked with non-toxic ink

Presterilized or autoclaved 121°C for 10 min.

20. Absorbent Pads

Manufacturer Millipore Type Sterile Dispenser

Filter paper free from growth inhibitory substances.

Thickness uniform to permit 1.8 - 2.2 ml medium absorption

Presterilized or autoclaved with membrane filters

1. Forceps (Millipore)
- Preferably round tip without corrugations.
- Forceps are alcohol flamed for use in MF procedure.

Glassware, Metal Utensils and Plastic Items

2. Media Preparation Utensils
- Borosilicate glass
- Stainless steel.
- Utensils clean and free from foreign residues or
dried medium.

3. Pipets
- | | | | |
|---|----------------|------|--------------|
| Brand | Kimax (Kimbal) | Type | Tip Delivery |
| Calibration error not exceeding 2.5%. | | | |
| Tips unbroken, graduation distinctly marked | | | |
| Deliver accurately and quickly. | | | |
| Mouth end plugged with cotton (optional) | | | |
| 0 | | | |

4. Pipet Containers
- Box, aluminum or stainless steel
- Paper wrapping of good quality sulfite paper (optional) :

5. Petri Dishes
- | | | | |
|---|-----------|------|---------|
| Brand | Millipore | Type | Plastic |
| Use 100 mm x 15 mm dishes for pour plates | | | |
| Use 60 mm x 15 mm dishes for MF cultures | | | |
| Clear, flat bottom, free from bubbles and scratches. | | | |
| Plastic dishes may be reused if sterilized in 70% ethanol for
30 min. or by ultraviolet radiation *. | | | |
| X | | | |
- * Not resterilized

6. Petri Dish Containers
- Aluminum or stainless steel cans with covers, coarsely woven
wire baskets, char-resistant paper sacks or wrappings
- 0

7. Culture Tubes
- Size sufficient for total volume of medium and sample portions
- Borosilicate glass or other corrosive resistant glass

8. Dilution Bottles or Tubes
- Borosilicate or other corrosive resistant glass
- Screw cap with leak-proof liner free from toxic substances
on sterilization
- Graduation level indelibly marked on side of bottle or tube

Materials and Media Preparation

29. Cleaning Glassware

Dishwasher Manufacturer Better Built Model Turbomatic
Thoroughly washed in detergent at 160°F, cycle time 2 minutes . . .
Rinse in clean water at 180°F, cycle time 2 minutes . . .
Final rinse in distilled water, cycle time 1 second . . .
Detergent brand Detergent 101
Washing procedure leaves no toxic residue . . . X
Glassware free from acidity or alkalinity . . .

30. Sterilization of Materials

Dry heat sterilization (~~XXXXXXX~~) (2 hour at 180°C)
Glassware not in metal containers . . .
Dry heat sterilization (2 hrs at 170°C)
Glassware in metal containers. . .
Glass sample bottles . . .
Autoclaving at 121°C for 15 min . . .
Plastic sample bottles . . .
Dilution water blanks. . .

31. Laboratory Water Quality Culligan system (deionized to reverse osmosis)

Still manufacturer _____ Construction Material _____
Demineralizer with _____ recharge frequency
Protected storage tank . . .
Supply adequate for all laboratory needs. . .
Free from traces of dissolved metals or chlorine . . .
Free from bactericidal compounds as measured
by bacteriological suitability test . . .
Bacteriological quality of water measured once each year
by suitability test or sooner if necessary . . .

32. Buffered Dilution Water

Stock phosphate buffer solution pH 7.2 . . .
Prepare fresh stock buffer when turbidity appears . . . X
Stock buffer autoclaved and stored at 5 - 10°C . . .
1.25 ml stock buffer per 1 liter distilled water. . .
Dispense to give 99 ± 2 ml or 9 ± 0.2 ml after autoclaving. . . X

33. pH Measurements

Calibrate pH meter against appropriate standard buffer prior to use . . .
Standard buffer brand Scientific Products pH 7.0 (Lot 6026G-Blue)
Check the pH of each sterile medium batch or at least one batch
from each new medium lot number. . .

Laboratory Central Lab. Services,
Florida Department Health & Rehabilitative
Services

Location
1217 Pearl Street
Jacksonville, Fla. 32201

Date
July 27-28
1976

33. pH Measurements (Continued)

Maintain a pH record of each sterile medium batch,
the date and lot number.

X

34. Sterilization of Media

Carbohydrate medium sterilized 121°C for 12 min
All other media autoclaved 121°C for 15 min
Tubes packed loosely in baskets for uniform heating and cooling
Timing starts when autoclave reaches 121°C
Total exposure of carbohydrate media to heat not over 45 min.
Media removed and cooled as soon as possible after sterilization

35. Storage

Dehydrated media bottles kept tightly closed and stored
at less than 30°C
Dehydrated media not used if discolored or caked
Sterile culture media stored in clean area free from
contamination and excessive evaporation
Sterile batches used in less than 1 week
All media protected from sunlight
If media is stored at low temperatures, it must be incubated
overnight and any tubes with air bubbles discarded

0

Culture Media - Specifications

36. Lactose Broth

Manufacturer _____ Lot No. _____
Single strength composition 13 g per liter distilled water
Single strength pH 6.9 ± 0.1 , double strength pH 6.7 ± 0.1
Not less than 10 ml medium per tube
Composition of medium after 10 ml sample is added must
contain 0.013 g per ml dry ingredients.

7. Lauryl Tryptose Broth

Manufacturer BBL Lot No. K6DCLJ
Single strength composition 35.6 g per liter distilled water
Single strength pH 6.8 ± 0.1 , double strength pH 6.7 ± 0.1
Not less than 10 ml medium per tube
Composition of medium after 10 ml sample is added must
contain 0.0356 g per ml of dry ingredients

8. Brilliant Green Lactose Bile Broth

Manufacturer Difco Lot No. 615337

38. Brilliant Green Lactose Bile Broth (Continued)

Correct composition, sterility and pH ~~7.2~~ 7.0

Not less than 10 ml medium per tube

39. Eosin Methylene Blue Agar

Manufacturer Difco Lot No. 594661

Medium contains no sucrose, Cat. No. 0005-02

Correct composition, sterility and pH 7.1

40. Plate Count Agar (Tryptose Glucose Yeast Agar)

Manufacturer BBL Lot No. 11638

Correct composition, sterility and pH 7.0 ± 0.1

Free from precipitate.

Sterile medium not remelted a second time after sterilization.

41. EC Medium

Manufacturer Difco Lot No. 623924

Correct composition, sterility and pH 6.9.

Not less than 10 ml medium per tube

42. M-Endo Medium

Manufacturer Difco Lot No. 624607

Correct composition and pH 7.1 - 7.3

Reconstituted in distilled water containing 2% ethanol.

Heat to boiling point, promptly remove and cool

Store in dark at 2 - 10°C

Unused medium discarded after 96 hrs

43. M-FC Broth

Manufacturer Difco Lot No. 581205

Correct composition and pH 7.4

Reconstituted in 100 ml distilled water containing 1 ml of
a 1% rosolic acid reagent.

Stock solution of rosolic acid discarded after 2 weeks or
when red color changes to muddy brown

Heat to boiling point, promptly remove and cool

Store in dark at 2 - 10°C

Unused medium discarded after 96 hrs.

44. _____ Broth

Manufacturer _____ Lot No. _____

Correct composition and pH

45. _____ Agar

Manufacturer _____ Lot No. _____

45. Agar (Continued)
 Correct composition and pH.

Multiple Tube Coliform Test

46. Presumptive Procedure
 Lactose broth not used lauryl tryptose broth ✓
 Shake sample vigorously
 Potable water: 5 standard portions, either 10 or 100 ml.
 Stream monitoring: multiple dilutions
 Incubate tubes at 35° ± 0.5°C for 24 ± 2 hr
 Examine for gas ✓ any gas bubble positive.
 Return negative tubes to incubator.
 Examine for gas at 48 ± 3 hr from original incubation

47. Confirmed Test
 Promptly submit all presumptive tubes showing gas production
 before or at 24 hr and 48 hr periods to Confirmed Test
 a. Brilliant green lactose broth
 Gently shake presumptive tube or mix by rotating
 Transfer one loopful of positive broth or one dip of applicator
 from presumptive tube to brilliant green lactose broth.
 Incubate at 35° ± 0.5°C and check at 24 hrs for gas production.
 Reincubate negative tubes for additional 24 hrs
 and check for gas production
 Calculate MPN or report positive tube results.
 b. Endo or eosin methylene blue agar plates adequate streaking
 to obtain discrete colonies separated by 0.5 cm. 0
 Incubate at 35° ± 0.5°C for 24 ± 2 hr
 Typical nucleated colonies with or without sheen are coliforms
 If atypical unnucleated pink colonies develop, result is
 doubtful and completed test must be applied.
 If no colonies or only colorless colonies appear, the
 confirmed test is negative

48. Completed Test
 Applied to all potable water samples or a proportion each three
 months to establish the validity of the confirmed test in
 determining their sanitary quality.
 Applied to positive confirmed tubes or to doubtful colonies
 on differential medium.
 Streak positive confirmed tubes on Endo or EMB plates for
 colony isolation.

48. Completed Test (Continued)

Choice of selected isolated colony for verification should be one
typical or two atypical to lactose or lauryl tryptose broth and
to agar slant for Gram stain.
Incubate at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ for 24 hrs or 48 hrs
Gram negative rods without spores and gas in lactose tube
with 48 hrs in positive Completed Test

Membrane Filter Coliform Test

49. Application as Standard Test

Use as a standard test for determining potability of water after
demonstration by parallel testing that it yields information
equal to that from the multiple-tube fermentation procedure

50. MF Procedure

Filter funnel and receptacle sterile at start of series.
Rapid funnel reesterilization by UV, flowing steam or boiling water
acceptable.
Membrane filter cultures and technician eyes should not be
subject to UV radiation leaks 100 0
Filtration volume not less than 50 ml for potable water; multiple
dilutions for stream pollution
Rinse funnel by flushing several 20 - 30 ml portions of sterile buffered
water through MF
Remove filter with sterile forceps
Roll filter over M-ENDO medium pad or agar so air bubbles
will not form

51. Incubation

In high humidity or in tight fitting culture dishes
At $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ for 22 - 24 hrs

52. Counting

All colonies with a metallic yellowish green surface sheen
If coliforms are found in potable samples, verify by transfers
to lactose broth, then to BGB broth for evidence of gas
production at 35°C within 48 hr limit. X
Calculate direct count in coliform density per 100 ml.

53. Standard MF test with Enrichment

Incubate MF after filtration on pad saturated with lauryl tryptose
broth for 1 1/2 - 2 hr at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ 0

1. Standard MF test with Enrichment (Continued)

Transfer MF culture to M-Endo medium for a final
20 - 22 hr incubation at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$
Count sheen colonies, verify if necessary, and calculate
direct count in coliform density per 100 ml

Supplementary Bacteriological Methods

2. Standard Plate Count (on request only)

Plate not more than 1 or less than 0.1 ml (sample or dilution)
Add 10 ml or more liquefied agar medium at a temperature
between $43 - 45^{\circ}\text{C}$
Melted medium stored for no more than 3 hr at $43 - 45^{\circ}\text{C}$
Liquid agar and sample portion thoroughly mixed by gently
rotating to spread mixture evenly
Count only plates with between 30 and 300 colonies, exception
being 1 ml sample with less than 30 colonies
Record only two significant figures and calculate as "standard
plate count at 35°C per 1 ml of sample".

3. Fecal Coliform Test

a. Multiple Tube Procedure (streams and source waters)

Applied as an EC broth confirmation of all positive
presumptive tubes.
Place EC tubes in water bath within 30 min of transfers
Incubate at $44.5^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ for 24 hrs
Gas production is positive test for fecal coliforms.
Calculate MPN based on combination of positive EC tubes

b. Membrane Filter Procedure

Following filtration place MF over pad saturated with
M-FC broth 0
Place MF cultures in water-proof plastic bag and submerge
in water bath within 30 min.
Incubate at $44.5^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ for 24 hrs
All blue colonies are fecal coliforms.
Calculate direct count in density per 100 ml

4. Delayed-Incubation Coliform Test

After filtration, place MF over pad of M-Endo containing 3.2 ml
of a 12% sodium benzoate solution per 100 ml of medium 0
Addition of 50 mg cycloheximide per 100 ml of preservative
medium for fungus suppression is optional
Transport culture by mail service to laboratory within 72 hours

56. Delayed-Incubation Coliform Test (Continued)

Transfer MF cultures to standard M-Endo medium
 at laboratory.

Incubate at 35° C ± 0.5° C for 20 - 22 hr

If at time of transfer, growth is visible, hold in refrigerator
 till end of work day then incubate at 35° overnight
 (16 - 18 hr period)

Count sheen colonies, verify if necessary, and calculate
 direct count in coliform density per 100 ml

57. Additional Test Capabilities

Fecal streptococci	on request	Method AD → EVA (MPN)
Pseudomonas aeruginosa	" "	Method M-ENDO → BG Plates → Ident.
Staphylococcus		Method
Salmonellae	on request	Method MF → 1 ST → TETRA → RG, SS, MAC
Biochemical tests	" "	Purpose IMVTC
Serological tests	-	Purpose
Other	-	Purpose

Laboratory Staff and Facilities

58. Personnel

Adequately trained or supervised for bacteriological
 examination of water

Laboratory staff 3 (Total) Prep room staff 2 (Total)

59. Reference Material

Copy of the current edition of Standard Methods available
 in the laboratory

State or federal manuals on bacteriological procedures for
 water available for staff use 0

60. Physical Facilities

Bench-top area adequate for periods of peak work in
 processing samples.

Sufficient cabinet space for media and chemical storage.

Office space and equipment available for processing water
 examination reports and mailing sample bottles

Facilities clean, with adequate lighting, ventilation and
 reasonably free from dust and drafts

61. Laboratory Safety

Proper receptacles for contaminated glassware and pipettes.

Laboratory Central Lab. Services,
Florida Department Health & Rehabilitative
Services

Location
1217 Pearl St
Jacksonville, Fla. 32201.

Date.
July 27-28
1976

11. Laboratory Safety (Continued)

Adequately functioning autoclaves with periodic inspection
and maintenance.
Accessible facilities for hand washing
Proper maintenance of electrical equipment to prevent fire
and electrical shock
Convenient gas and electric outlets.
First aid supplies available and not out-dated

12. Remarks

Microbiology (State Branch Laboratories and County Health Department
Laboratories MF and MPN Procedures:

Miami Branch Laboratory (3-76)	Miami
Orlando Branch Laboratory (9-74)	Orlando
Pensacola Branch Laboratory (12-75)	Pensacola
Tallahassee Branch Laboratory (4-74)	Tallahassee
Tampa Branch Laboratory (4-76)	Tampa
Brevard County Health Department Laboratory (5-77)	Rockledge
Duval County Health Department Laboratory (11-75)	Jacksonville
Pinellas County Health Department Laboratory (7-76)	St. Petersburg

Microbiology (County Health Departments) MF Procedure Only:

Alachua County Health Department (6-74)	Gainesville
Charlotte County Health Department (4-76)	Punta Gorda
Citrus County Health Department (3-75)	Lecanto
Glades-Hendry County Health Department (5-76)	Moore Haven
Hernando County Health Department (5-76)	Brooksville
Highlands County Health Department (5-76)	Sebring
Lee County Health Department (9-75)	Ft. Myers
Levy County Health Department (9-75)	Bronson
Manatee County Health Department (4-76)	Bradenton
Marion County Health Department (6-74)	Ocala
Orange County Health Department (6-77)	Orlando
Polk County Health Department (8-72)	Winter Haven
Sarasota County Health Department (2-74)	Sarasota
St. Johns County Health Department (3-76)	St. Augustine

Microbiology (Non-Health Agency Laboratories) MF Procedure Only:

*Bay County Water Treatment Plant (9-72)	Panama City
*Belle Glade Water Treatment Plant (5-76)	Belle Glade
*Bradenton Water Plant (7-71)	Bradenton
Cape Coral Water Plant (7-71)	Cape Coral
Cocoa Water Treatment Plant (4-72)	Cocoa
Daytona Water Treatment Plant (4-72)	Daytona Beach
DeFuniak Springs Water Treatment Plant (4-75)	DeFuniak Springs
Deerfield Beach Water Treatment Plant (10-70)	Deerfield Beach
Dixie Water Treatment Plant (11-70)	Ft. Lauderdale
Duval County Environmental Laboratory (11-75)	Jacksonville
Florida Keys Aqueduct Authority (1-76)	Key West
Florida Utilities (12-70)	Winter Park
Ft. Myers Water Department (7-75)	Ft. Myers
Ft. Pierce Water Treatment Plant (4-72)	Ft. Pierce
Gainesville Water Treatment Plant (6-76)	Gainesville
Holly Hill Water Treatment Plant (3-77)	Holly Hill
Hollywood Water Treatment Plant (10-70)	Hollywood
Lake City Water Treatment Plant (11-75)	Lake City
Lake Worth Water Treatment Plant (7-70)	Lake Worth
Lakeland Water Plant (11-71)	Lakeland

*Also have approval for turbidity analysis

Microbiology (Non-Health Agency Laboratories) continued
 MF Procedure Only:

*Lee County Environmental Laboratory (9-75).	Ft. Myers
Manatee County Utilities (9-75)	Bradenton
*Manatee County Utilities Laboratory (9-75).	Bradenton
*Marco Island Utilities (8-70)	Marco Island
*Melbourne Water Treatment Plant (4-72).	Melbourne
Miami Water Treatment Plant (2-72).	Hialeah
Miramar Water Treatment Plant (10-70)	Hollywood
Monticello Water Treatment Plant (2-75)	Monticello
*Naples Water Treatment Plant (7-73)	Naples
North Miami Water Treatment Plant (2-72).	North Miami
Orlando Utilities (11-71)	Orlando
Ormond Beach Water Treatment Plant (1-76)	Ormond Beach
*Pahokee Water Treatment Plant (7-70).	Pahokee
Panama City Water Plant (9-72).	Panama City
Pinellas County Water System (7-70)	Seminole
Pompano Beach Water Treatment Plant (10-70)	Pompano Beach
*Port Charlotte Water Plant (7-73)	Port Charlotte
*Port St. Joe Water Treatment Plant (9-72)	Port St. Joe
*Punta Gorda Water Treatment Plant (7-73).	Punta Gorda
Reedy Creek Development Corp. (Disneyworld) ('73)	Buena Vista
Riveria Beach Water Treatment Plant (12-70)	Riveria Beach
*St. Augustine Water Plant (3-76).	St. Augustine
St. Petersburg Water Plant (7-76)	Odessa
Sarasota County Environmental Laboratory (9-74)	Sarasota
Sarasota Water Plant (7-71)	Sarasota
*Tampa Water Treatment Plant (7-76).	Tampa
Titusville Public Utilities (4-72).	Titusville
Vero Beach Utilities (11-75).	Vero Beach
*U.S. Sugar Corp. (Bryant Mills) (2 plants) (5-76)	Clewiston
*West Palm Beach Water Treatment Plant (7-70).	West Palm Beach
Pratt Whitney Aircraft (7-70)	West Palm Beach
DER Microbiological Laboratory	Tallahassee

Microbiology Laboratories. Turbidity Procedure:

Department of Health and Rehabilitative Services	
Jacksonville Central Laboratory	Jacksonville
Miami Branch Laboratory	Miami
Tampa Branch Laboratory	Tampa
Brevard County Health Department Laboratory	Rockledge
Pinellas County Health Department Laboratory	St. Petersburg
Palm Beach County Health Department Laboratory	Delray
DER Central Chemical Laboratory	Tallahassee
Florida State Hospital	Chattahoochee
General Development Corporation	Port Charlotte
City of Okeechobee	Okeechobee
City of Quincy.	Quincy
Town of South Bay	South Bay

*Also have approval for turbidity analysis

CHAPTER 120
ADMINISTRATIVE PROCEDURE ACT

120.50 Exception to application of chapter.--This chapter shall not apply to the Legislature or the courts.

History.--s. 1, ch. 74-310.

120.51 Short title.--This chapter may be known and cited as the "Administrative Procedure Act."

History.--s. 1, ch. 74-310.

120.52 Definitions.--As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the Constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 160, 163, 293, 373, 380 and 582.

(c) Each other unit of government in the state, including counties and municipalities to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

(2) "Agency action" means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any request made under ¹[s. 120.54(4)].

(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action.

(4) "Committee" means the Administrative Procedures Committee.

(5) "Division" means the Division of Administrative Hearings of the Department of Administration.

(6) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and Blind, or a unit of the State University System other than the Board of Regents.

(7) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(8) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment ²[of a license] or imposition of terms for the exercise of a license.

(9) "Order" means a final agency decision which does not have the effect of a rule and which is not excepted from the definition of a rule, whether affirmative, negative, injunctive, or declaratory in form. An agency decision shall be final when reduced to writing.

(10) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency

regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(11) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(12) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial agency head plans to enter as its final order. When a hearing officer assigned by the division conducts a hearing, the recommended order is the proposed order.

(13) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency for the final disposition of a proceeding under s. 120.57.

(14) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public,

(b) Legal memoranda or opinions issued to an agency by the attorney general or agency legal opinions prior to their use in connection with the agency action, or

(c) The preparation or modification of:

1. Agency budgets,
2. Contractual provisions reached as a result of collective bargaining, or
3. Agricultural marketing orders under chapter 573 or chapter 601.

History.—s. 1, ch. 74-310; s. 1, ch. 75-191.

¹Note.—Bracketed section number substituted for "120.54(3)" by the editors to conform this cross reference to conference committee amendment of SB 892.

²Note.—Bracketed words inserted by the editors in the interest of clarity.

120.53 Adoption of rules of procedure and public inspection.—

(1) In addition to other requirements imposed by law, each agency shall;

(a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures, including copies of all forms and instructions used by the agency.

(c) Adopt rules or procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, including the establishment of agenda therefor, one of which shall be that an agenda shall be prepared by the agency at least 7 days before the event and made available for distribution on request of any interested persons. The agenda shall contain the items to be considered, in the order of presentation. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting.

(2) Each agency shall make available for public inspection and copying, at no more than cost:

(a) All rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject-matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be indexed within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

History.--s. 1, ch. 74-310; s. 2, ch. 75-191.

120.54 Rulemaking: adoption procedures.--

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (8), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, a summary of the proposed rule, and the specific legal authority under which its adoption is authorized. In addition, the agency shall set forth an estimate of the economic impact of the proposed rule on all persons affected by it. If the agency determines that this is not possible, the reasons why the costs of the proposed rule cannot be estimated shall be stated in the notice. The notice shall contain the location where the text of the proposed rule can be obtained if such text is not included in the notice.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (8) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee.

(2) If the intended action concerns any rule other than one relating exclusively to organization, procedure or practice, the agency shall, on the request of any affected person received within 14 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions.

(3)(a) Any substantially affected person may seek an administrative determination of the '[invalidity]' of any proposed rule which contains any provision not relating exclusively to organization, practice, or procedure on the ground:

1. That the proposed rule is an invalid exercise of validly delegated legislative authority.

2. That the proposed rule is an exercise of invalidly delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 14 days after the date of publication of the notice. It must state with particularity facts sufficient to show that the person challenging the proposed rule would be substantially affected by it and facts sufficient to show the grounds, which may be stated in the alternative, on which the proposed rule is alleged to be invalid.

(c) Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be adopted until 21 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(4) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(5) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized shall be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(6) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of law being implemented, interpreted, or made specific.

(7) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(8) (a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be renewable. However, the agency may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.

(9) The Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. On filing with the department, the appropriate model rules shall be the rules of procedure for each agency subject to this act to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency. An agency may seek modification of the model rules of procedure to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the modification shall be published in the Florida Administrative Weekly. Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.

(10)(a) The adopting agency shall file with the committee a copy of each rule it proposes to adopt, a detailed written statement of the facts and circumstances justifying the proposed rule, and the notice required by subsection (1) at least 21 days prior to the proposed adoption date. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. As a legislative check on legislatively created authority, the committee shall examine the proposed rule and its accompanying material for the purpose of determining whether the proposed rule is within the statutory authority on which it is based, whether the rule is in proper form, and whether the notice issued pursuant to subsection (1) is sufficient to give adequate notice of the effect of the rule. After examining the proposed rule, the chairman of the committee may notify the agency and the Department of State that the committee is considering an objection to the rule. If it disapproves the rule, the committee shall, prior to the time the rule becomes effective, certify the fact to the agency proposing the rule, together with a statement detailing with particularity its objections to the proposed rule. The agency submitting the rule shall, within 30 days of the committee's objection, either modify the proposed rule to meet the objections found by the committee, withdraw the proposed rule in its entirety, or refuse to modify the rule.

Failure of the agency to act within 30 days shall constitute withdrawal of the rule in its entirety. Proposed rules modified to meet committee objections shall be resubmitted to the committee, and the committee shall give priority to modified rules when setting its agenda. This paragraph shall not apply to educational units other than units of the State University System, to local units of government with jurisdiction in only one county or a part thereof, or to emergency rules adopted pursuant to subsection (8). However, agencies adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) Twenty-one days after the notice required by subsection (1), or after the final public hearing, if the hearing extends beyond the 21 days, the adopting agency shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule.

(11) The proposed rule shall be adopted on filing with the Department of State and become effective 20 days after filing, on a later date specified in the rule, or on a date required by statute.

(12) If the committee disapproves a proposed rule and the agency does not mollify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears.

(13) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the legislature when establishing a penalty specifically provides that the penalty shall apply to rules.

(14) The rulemaking provisions of this chapter shall not apply to the judges of industrial claims or compensation appeals referees.

History.—s. 1, ch. 74-310; s. 3, ch. 75-191.

Note.—Bracketed work substituted for "validity" by the editors.

120.55 Publication.—

(1) The Department of State shall:

(a) Conduct a systematic and continuing study of the rules of this state for the purpose of reducing their number and bulk and removing redundancies and unnecessary repetitions and make such changes in style and form as are required by paragraph (d).

(b) Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. Rules general in form but applicable to only one school district,

community college district, county, or a part thereof, or to the Florida School for the Deaf and Blind shall not be published in the Florida Administrative Code. Rules so omitted shall be filed in the Department of State, and exclusion from publication in the Florida Administrative Code shall not affect their validity or effectiveness. The department shall publish a compilation of, and index to, all rules so omitted at least annually.

(c) Publish a weekly publication entitled the "Florida Administrative Weekly" which shall contain:

1. A summary of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by subsection 120.54(1), showing the time, place, and date of the hearings and the summaries of all rules proposed for consideration.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of paragraph 120.53(1)(d), including a statement of the location at which a copy of the agenda may be obtained.

4. Notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. Notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection filed by the Administrative Procedures Committee during the preceding week to any rule.

8. Any other material required or authorized by law or deemed useful by the department.

(d) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

(e) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules and insert history notes.

(f) Before making any change in any rules as provided in paragraphs (a) or (e), obtain the advice and consent of the affected agency.

(g) Make copies of the Florida Administrative Code available for sale at no more than cost and copies of the Florida Administrative Weekly on an annual subscription basis for not more than \$5 per year.

(h) Charge each agency using the Florida Administrative Weekly a space rate computed to cover all costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted, at its own expense or purchase copies for distribution from the Department of State.

(3)(a) The Department of State shall furnish the Florida Administrative Code and the Florida Administrative Weekly, without charge and upon request, as follows:

1. One set to each federal and state court having jurisdiction over the residents of the state; each Florida senator, congressman, and state legislator; the legislative library; each state university library; the state library; and each standing committee of the senate and house of representatives.

2. Two sets to each state department.

3. Three sets to the library of the attorney general, each law school library in Florida, the secretary of the senate, and the clerk of the house.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost, to the depository libraries of the Florida State Library, each clerk of the circuit court, and each state department, for posting for public inspection.

(4)(a) There is hereby created in the State Treasury a revolving fund to be known as the Department of State's "Publication Revolving Trust Fund."

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed \$100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has transferred to the General Revenue Fund an amount equal to all funds appropriated to the trust fund.

History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191.

120.56 Administrative determination of rule.—

(1) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground:

(a) That the rule is an invalid exercise of validly delegated legislative authority.

(b) That the rule is an exercise of invalidly delegated legislative authority.

(2) The petition seeking an administrative determination under this section shall be in writing and state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the grounds on which the rule is alleged to be invalid, which may be stated in the alternative. The petition shall be filed with the division. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn.

(3) Within 30 days after the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The hearing officer may declare all or part of a rule invalid. The rule or part thereof declared invalid

shall become void when the time for filing an appeal expires or at a later date specified in the decision.

(4) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The petitioner and the agency whose rule is attacked shall be adversary parties. Other substantially affected persons may join the proceedings as parties or intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

History.--s. 1, ch. 74-310; s. 5, ch. 75-191.

120.565 Declaratory statement by agencies.--Each agency shall provide by rule the procedure for the filing and prompt disposition of petitions for declaratory statements as to the applicability of any statutory provision or of any rule or order of the agency. Agency disposition of petitions shall be final agency action.

History.--s. 6, ch. 75-191.

120.57 Decisions which affect substantial interests.--The provisions of this section shall apply in all proceedings in which the substantial interests of a party are determined by an agency. Rulemaking proceedings shall be governed solely by s. 120.54 unless, and to the extent that, a party timely asserts that his substantial interests will be affected in the proceedings and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that rulemaking proceedings are not adequate to protect a party's interests, it shall convene a separate proceeding and proceed under the provisions of this section. The agency may request similarly situated parties to join and participate in such a proceeding. The rulemaking proceeding shall not be concluded prior to the issuance of the final order in the separate proceeding. Unless waived by consent of all parties and the agency involved, subsection (1) shall apply to the extent that the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) shall apply in all other cases.

(1) FORMAL PROCEEDINGS.--

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads other than those within the Department of Professional and Occupational Regulation;

2. Hearings before a member of an agency head other than agency heads within the Department of Professional and Occupational Regulation;

3. Hearings before the Industrial Relations Commission, judges of industrial claims, unemployment compensation appeals referees, and the Public Service Commission or its examiners;

4. Hearings regarding drivers' licensing pursuant to chapter 322;

5. Hearings within the Division of Family Services of the Department of Health and Rehabilitative Services; and

6. Hearings in which the division is a party; when the division is a party, an attorney assigned by the Administration Commission shall be the hearing officer.

(b) In cases to which this subsection is applicable, the following procedures shall apply:

1. Requests for hearings shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days, unless waived by all parties, which notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for proceedings conducted as prescribed in subsection 120.54(3) or s. 120.56, all petitions or requests for hearings under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall notify the division within 10 days of receipt of the petition or request, requesting the assignment of a hearing officer and, with the concurrence of the division, setting the time, date, and place of the hearing. On request of any agency, the division shall assign hearing officers with due regard to the expertise required for the particular matter. Any party may request the disqualification of any hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. The record in cases governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and proffers of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing, or prior to its disposition, after notice of the submission to all parties;

h. All matters placed on the record after an ex parte communication pursuant to subsection 120.66(2); and

i. The official transcript.

6. The agency shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost.

7. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

8. The hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

9. The agency may adopt the recommended order as the agency's final order. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a recommended order, but may not increase it without a review of the complete record. In the event a court, in reversing an agency's order, finds that such agency action was done in bad faith or maliciously, the court may award attorney's fees and costs to the aggrieved prevailing party.

10. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

11. A hearing officer who is a member of an agency head may participate in the formulation of the agency's final order, provided he has completed all his duties as hearing officer.

(2) INFORMAL PROCEEDINGS.--In cases to which subsection (1) does not apply:

(a) The agency shall, in accordance with its rules of procedure:

1. Give reasonable notice to affected persons or parties of the agency's action, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give affected persons or parties, or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the agency's action or refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to subsection 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section shall not apply to agency investigations preliminary to agency action.

History.—s. 1, ch. 74-310; s. 7, ch. 75-191.

1Note.—Division of Family Services abolished by s. 3, ch. 75-48.

120.58 Agency action: evidence, record and subpoenas.—

(1) In agency proceedings for a rule or order:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This paragraph applies only to proceedings under s. 120.57.

(b) An agency or its duly empowered presiding officer or a hearing officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas upon the written request of any party or upon its own motion, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure.

(c) Any public employee subpoenaed to appear at an agency proceeding shall be entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement, and in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(d) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(e) If a majority of those who are to render the final order have not heard the case or read the record, a decision adverse to a party other than the agency itself shall not be made until a proposed order is served upon the parties and they are given an opportunity to file exceptions and present briefs and oral arguments to those who are to render the

decision. The proposed order shall contain necessary findings of fact and conclusions of law and a reference to the source of each. The proposed order shall be prepared by the individual who conducted the hearing, if available, or by one who has read the record. The parties by written stipulation may waive compliance with this paragraph.

(f) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(2) Any person subject to a subpoena or order directing discovery may, before compliance and on timely petition, request the agency having jurisdiction of the dispute to invalidate the subpoena or order on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material, but the decision of the agency on any such request shall not be proposed agency action governed by s. 120.57.

(3) Any person failing to comply with a subpoena or order directing discovery issued under the authority of this act shall be in contempt of the agency issuing the subpoena or order and subject to any penalties which the agency is authorized by law to prescribe; however, no person shall be in contempt while the subpoena or order is being challenged under subsection (2). In the absence of agency action on the default within 30 days, the party requesting the subpoena or order may bring proceedings in an appropriate court for enforcement of the subpoena or order, and a failure to comply with an order of the court shall result in a finding of contempt of court. In the absence of statutory authority for a remedy, the violator may receive a fine not to exceed \$500.

History.—s. 1, ch. 74-310; s. 8, ch. 75-191.

120.59 Orders.—

(1) The final order in a proceeding which affects substantial interests shall be in writing or stated in the record and include findings of fact and conclusions of law separately stated, and it shall be rendered within 90 days:

(a) After the hearing is concluded, if conducted by the agency,

(b) After a recommended order is submitted to the agency and mailed to all parties, if [the hearing is] conducted by a hearing officer, or

(c) After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.

The 90-day period may be waived or extended with the consent of all parties.

(2) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record which support the findings. If, in accordance with agency rules, a party submitted proposed findings of fact or filed any written application or other request in connection with the proceeding, the order shall include a ruling upon each proposed finding and a brief statement of the grounds for denying the application or request.

(3) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or enjoinable from the date rendered.

(4) parties shall be notified either personally or by mail of any order, and, unless waived, a copy of the final order shall be delivered or mailed to each party or to his attorney of record.

History.—s. 1, ch. 74-310.

¹Note.—Bracketed words inserted by the editors for clarity.

120.60 Licensing.—

(1) Unless otherwise provided by statute enacted subsequent to the effective date of this act, licensing is subject to the provisions of s. 120.57.

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of same, except where issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.

(3) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency ¹[or], in case the application is denied or the terms of the license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(4) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency has given reasonable notice by certified mail to the licensee of facts or conduct which warrant the intended action and the licensee has been given an opportunity to show that he has complied with all lawful requirements for the retention of the license.

(5) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension of a license, it shall show compliance in its order with the requirements imposed by subsection 120.54(8) on agencies making emergency rules. Summary suspension may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

History.—s. 1, ch. 74-310.

¹Note.—Bracketed word substituted for word "and."

120.61 Official recognition.—When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.

History.—s. 1, ch. 74-310.

120.62 Agency investigations.-

(1) No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person who responds to a request or demand by any agency or representative thereof for written data or an oral statement shall be entitled to a transcript of his oral statement at no more than cost.

(2) Any person compelled to appear, or who appears voluntarily, before any hearing officer or agency in an investigation or in any agency proceeding has the right, at his own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

History.--s. 1, ch. 74-310.

120.63 Exemption from act.-

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law; or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in subsection 120.54(1).

(b) An exemption, and any alternative procedure prescribed, shall terminate 90 days following adjournment sine die of the next regular legislative session after issuance of the exemption, and it shall be renewable upon the same or similar facts no more than once. Such renewal shall terminate 90 days following adjournment sine die of the next regular legislative session following the renewal.

History.--s. 1, ch. 74-310.

120.65 Hearing officers.-

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration, to be headed by a director who shall be appointed by the Administration Commission and confirmed by the senate. The division shall be exempt from the provisions of chapter 216.

(2) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time

hearing officer unless he has been a member of The Florida Bar in good standing for the preceding 3 years.

(3) If the division cannot furnish a division hearing officer promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.

(4) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters.

(5) By rule, the division may establish:

(a) Further qualifications for hearing officers and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of hearing officers.

(c) Procedures for the assignment of hearing officers.

(6) Beginning July 1, 1976, all costs of administering the division shall be paid to the division trust fund on a pro rata basis by the agencies using its services. The division shall submit statements to the agencies at least quarterly.

(7) There is hereby created in the state treasury a revolving fund to be known as the "Division of Administrative Hearings Revolving Trust Fund." All fees and other moneys collected by the division for services rendered under this act shall be deposited in the revolving trust fund, and expenses of the division shall be paid from the fund.

(8) The division is authorized to provide hearing officers on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(9) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

History.--s. 1, ch. 74-310; s. 9, ch. 75-191.

120.66 Ex parte communications.--

(1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head after the agency head has received a recommended order or to the hearing officer by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his authorized representative or counsel.

Nothing in this subsection shall apply to an advisory staff which does not participate in the proceeding or to any rulemaking proceedings under s. 120.54.

(2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the division shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any hearing officer who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed \$500 or '[be subjected to] such other disciplinary action as his superiors may determine.

History.—s. 1, ch. 74-310; s. 10, ch. 75-191.

'Note.—Bracketed words substituted for "by" by the editors for clarity.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) Except in matters for which judicial review by the supreme court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. Review proceedings shall be conducted in accordance with the Florida Appellate Rules.

(3) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection '[(6)]'.

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before its action and used as a basis for its action, if review is sought of proceedings under s. 120.56 or if there has been no proceeding under s. 120.54 or s. 120.57.

(6) When there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, fact-finding proceeding under this act after ²[having] a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57 of the act, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be:

(a) Outside the range of discretion-delegated to the agency by law;

(b) Inconsistent with an agency rule, an officially stated agency policy, or a prior agency practice, if deviation therefrom is not explained by the agency; or

(c) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13) (a) The reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties, and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

History.—s. 1, ch. 74-310.

¹Note.—Bracketed subsection number substituted for "(7)" to correct the cross reference for a committee amendment to SB 892.

²Note.—Bracketed word substituted for "giving" by the editors.

120.69 Enforcement of agency action.—

(1) Except as otherwise provided by statute:

(a) Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.

(b) A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:

1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the attorney general, and any alleged violator of the agency action.

2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.

(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.

(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed \$1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action, on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings:

(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in subsection 120.68(6).

(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.

(c) Should any party willfully fail to comply with an order of the court, the court shall punish him in accordance with the law applicable to contempt committed by a person in the trial of any other action.

(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

History.-s. 1, ch. 74-310.

120.70 Annual report.-Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(1) A summary of the extent and effect of agencies' utilization of hearing officers, court reporters, and other personnel in proceedings under this act.

(2) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

History.-s. 1, ch. 74-310.

120.71 Disqualification of agency personnel.-

(1) Any individual serving alone or with others as an agency head shall be disqualified from serving in an agency proceeding for bias, prejudice, interest, or other causes for which a judge may be recused. If the disqualified individual holds his position by appointment, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified.

(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.

History.--s. 1, ch. 74-310.

120.72 Legislative intent; prior proceedings and rules; exception.-

(1) The intent of the legislature in enacting this complete revision of chapter 120, Florida Statutes, is to make uniform the rulemaking and adjudicative procedures used by the administrative agencies of this state. To that end, it is the express intent of the legislature that the provisions of this act shall replace all other provisions in the Florida Statutes, 1973, relating to rulemaking, agency orders, administrative adjudication, or judicial review ¹[of administrative action], except for marketing orders adopted pursuant to chapters 573 and 601.

(2) All administrative adjudicative proceedings begun prior to January 1, 1975, shall be continued to a conclusion under the provisions of the Florida Statutes, 1973, except that administrative adjudicatory proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency conducting the proceeding, be conducted in accordance with the provisions of this act as nearly as is feasible.

(3) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(4)(a) All prior rules not adopted following a public hearing as provided by statute shall be void and unenforceable after October 1, 1975, and shall be stricken from the files of the Department of State and from the files of the adopting agency.

(b) ²[Any rule] in effect on, or filed with the Department of State prior to, January 1, 1975, except those adopted following a public hearing as provided by statute, shall be forthwith reviewed by the agency concerned on the written request of a person substantially affected by the rule involved and this provision. The agency concerned shall initiate the rulemaking procedures provided by this act within 90 days after receiving such written request. If the agency concerned fails to initiate the rulemaking procedures within 90 days, the operation of the rule shall be suspended. This provision shall control s. 120.54(4).

(c) All existing rules shall be indexed by January 1, 1975.

History.--s. 3, ch. 74-310.

¹Note.--Bracketed words inserted by editors for clarity.

²Note.--Bracketed words substituted for words "All rules" by the editors.

120.721 Effect of chapter 75-22, Laws of Florida, on rules.—Any rule or regulation of a public agency involved in or affected by the reorganization of the executive agencies as set forth in chapter 75-22, Laws of Florida, which was valid when adopted under the authority granted by the Legislature to adopt such rule, to the extent it is not inconsistent with chapter 75-22, Laws of Florida, shall remain in effect until it expires by its terms or is specifically repealed or revised as provided by law.

History.—s. 23, ch. 75-22.

120.73 Circuit court proceedings; declaratory judgments.—Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to divest the circuit courts of jurisdiction to render declaratory judgments under the provisions of chapter 86. If any action has been dismissed or otherwise disposed of on the ground that a provision of the statutes granting the right to a trial or the jurisdiction to render declaratory judgments was repealed by chapter 74-310, Laws of Florida, such action shall be reinstated by order of the court upon the filing of a petition by the plaintiff at any time during the 60-day period immediately following the effective date of this act.

History.—s. 11, ch. 75-191.

(3) Nothing herein shall require officers to pay into the state or county treasury those funds which are required by law or court order, or by the purpose for which they are collected, to be held and disbursed for a particular purpose in a manner different from that set forth in subsection (1).

History.—ss. 1, 2, ch. 6205, 1911; RGS 406, CGL 471; s. 1, ch. 76-224, cf. s. 219.07 Disbursements of public funds collected.

116.015 Receipt of counterfeit money in the course of operation of public office.—Whenever a state or county officer who has knowingly received into the public funds of his office any counterfeit currency discovers that fact, the officer shall furnish a written report of the matter to the appropriate state attorney, including such information as the state attorney may request. The officer shall not be personally liable, but shall be entitled to charge such loss as an expense against any available funds of his office, provided the amount of such charge does not exceed the face value of the currency so received.

History.—s. 1, ch. 76-117.

Note.—Effective October 1, 1976.

CHAPTER 120

ADMINISTRATIVE PROCEDURE ACT

- 120.52 Definitions.
- 120.53 Adoption of rules of procedure and public inspection.
- 120.54 Rulemaking; adoption procedures.
- 120.545 Committee review of agency rules. *(New)*
- 120.55 Publication.
- 120.56 Administrative determination of rule by hearing officer.
- 120.565 Declaratory statement by agencies.
- 120.57 Decisions which affect substantial interests.
- 120.58 Agency action; evidence, record and subpoenas.
- 120.60 Licensing.
- 120.63 Exemption from act.
- 120.65 Hearing officers.
- 120.66 Ex parte communications.
- 120.68 Judicial review.
- 120.72 Legislative intent; prior proceedings and rules; exception.

120.52 Definitions.—As used in this act:

- (1) "Agency" means:
 - (a) The Governor in the exercise of all executive powers other than those derived from the Constitution.
 - (b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 160, 163, 298, 373, 380 and 582.
 - (c) Each other unit of government in the state, including counties and municipalities to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.
 - (2) "Agency action" means the whole or part of

a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any request made under '[s. 120.54(5)].

(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action.

(4) "Committee" means the Administrative Procedures Committee.

(5) "Division" means the Division of Administrative Hearings of the Department of Administration.

(6) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and Blind, or a unit of the State University System other than the Board of Regents.

(7) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(8) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment [of a license] or imposition of terms for the exercise of a license.

(9) "Order" means a final agency decision which does not have the effect of a rule and which is not excepted from the definition of a rule, whether affirmative, negative, injunctive, or declaratory in form. An agency decision shall be final when reduced to writing.

(10) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(11) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(12) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial agency head plans to enter as its final order. When a hearing officer assigned by the division conducts a hearing, the recommended order is the proposed order.

(13) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency for the final disposition of a proceeding under s. 120.57.

(14) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term

also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.
2. Contractual provisions reached as a result of collective bargaining.
3. Agricultural marketing orders under chapter 573 or chapter 601.

History.—s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131.

*Note.—Bracketed section number substituted for "120.54(3)" by the editors to conform this cross reference to ch. 76-276, Laws of Florida.

*Note.—Bracketed words inserted by the editors in the interest of clarity.

120.53 Adoption of rules of procedure and public inspection.—

(1) In addition to other requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures, including a list of all forms and instructions used by the agency in its dealings with the public. The list of forms and instructions shall include the title of each form or instruction and a statement of the manner in which the form or instruction may be obtained without cost.

(c) Adopt rules of procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by the agency in time to insure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered, in the order of presentation. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in subsection 120.54(1), except that the notice requirement shall not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2) Each agency shall make available for public inspection and copying, at no more than cost:

(a) All rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject-matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be indexed within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

History.—s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131.

120.54 Rulemaking; adoption procedures.—

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection ²(9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, a summary of the proposed rule, the specific legal authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it. The notice shall contain the location where the text of the proposed rule or economic impact statement can be obtained if such text is not included in the notice.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection ²(9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;
2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and
3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee.

(2)(a) Every agency, prior to the adoption, amendment, or repeal of any rule, shall prepare information on its proposed action by preparing an economic impact statement using professionally accepted methodology, with quantification of data to the extent practicable, giving effect to both short-

term and long-term consequences. The economic impact statement shall include the following information:

1. A description of the action proposed, the purpose for taking the action, the legal authority for the action, and the plan for implementing such action;
2. A determination of the least-cost method for achieving the stated purpose;
3. A comparison of the cost-benefit relation of the action to nonaction;

4. A determination of whether the action represents the most efficient allocation of public and private resources;

5. A determination of the effect of the action on competition;

6. A conclusion as to the economic impact of the proposed agency action on preserving an open market for employment; and

7. A conclusion as to the economic impact upon all persons directly affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

(b) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(3) If the intended action concerns any rule other than one relating exclusively to organization, procedure or practice, the agency shall, on the request of any affected person received within 14 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions.

(4a) Any substantially affected person may seek an administrative determination of the 'invalidity' of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 14 days after the date of publication of the notice. It must state with particularity facts sufficient to show that the person challenging the proposed rule would be substantially affected by it and facts sufficient to show the 'invalidity of the proposed rule'.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render a decision and state the reasons therefor in writing. The division shall forward with transcript copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule

declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be adopted until 21 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(5) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized shall be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(7) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of law being implemented, interpreted, or made specific.

(8) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(9a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.
2. The agency takes only that action necessary to

protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be renewable. However, the agency may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.

(10) The Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. On filing with the department, the appropriate model rules shall be the rules of procedure for each agency subject to this act to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency. An agency may seek modification of the model rules of procedure to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the modification shall be published in the Florida Administrative Weekly. Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.

(11)(a) The adopting agency shall file with the committee a copy of each rule it proposes to adopt, a detailed written statement of the facts and circumstances justifying the proposed rule, a copy of the estimate of economic impact required by subsection (1), and the notice required by subsection (1) at least 21 days prior to the proposed adoption date. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. This paragraph shall not apply to educational units other than units of the State University System, to local units of government with jurisdiction in only one county or a part thereof, or to emergency rules adopted pursuant to subsection (9).

However, agencies adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) Not less than 21 days or more than 45 days after the notice required by subsection (1) or not more than 10 days after the conclusion of the final public hearing, if the hearing extends beyond the 45 days, the adopting agency, if it is required to publish its rules in the Florida Administrative Code, shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file all the above material with the Department of State, except that only one certified copy of the proposed rule shall be filed.

(12) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule by publishing a notice in the Florida Administrative Weekly and notifying the Department of State, and may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, or changes in response to a proposed objection by the committee. Changes supported by the record of a hearing or made in response to a proposed committee objection may include withdrawal of the rule in whole or in part. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(13) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the Weekly in which the full text thereof appears.

(14) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(15) The rulemaking provisions of this chapter shall not apply to the judges of industrial claims or compensation appeals referees.

(16) Rulemaking proceedings shall be governed

solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect his interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

History.—s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131, ss. 1, 2, ch. 76-276.

Note.—Bracketed word substituted for "validity" by the editors.

Note.—The bracketed words were substituted by the editors for the words, grounds, which may be stated in the alternative, on which the proposed rule is alleged to be invalid. The purpose of the substitution was to conform the language of this paragraph to the amendment by s. 3, ch. 76-131, repealing the alternative ground for a declaration of invalidity.

Note.—Bracketed subsection number substituted for "(8)" by the editors to conform to ch. 76-276, Laws of Florida.

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by paragraph 120.54²(11)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether the rule is within the statutory authority upon which it is based, whether the rule is in proper form, and whether the notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule. If the committee objects to a "[proposed or existing] rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

- (a) If the rule is a proposed rule:
 1. Modify the rule to meet the committee's objection;
 2. Withdraw the rule in its entirety; or
 3. Refuse to modify or withdraw the rule.
- (b) If the rule is an "[existing] rule":
 1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
 2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or
 3. Notify the committee that it refuses to amend or repeal the rule.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing in the agency. If the agency elects to amend an "[existing] rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative

Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal "[an existing] rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(5) If an agency elects to amend or repeal "[an existing] rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(6) Failure of the agency to respond to a committee objection to a proposed rule within the time prescribed in subsection (2) shall constitute withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the proposed rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the proposed rule shall be stricken from the files of the Department of State and the files of the agency.

(7) Failure of the agency to respond to a committee objection to an "[existing] rule within the time prescribed in subsection (2) shall constitute a refusal to repeal the rule.

(8) If the committee objects to a "[proposed or existing] rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

History.—s. 4, ch. 76-131.

Note.—Bracketed word substituted by the editors for word "effective."

Note.—Bracketed words inserted by the editors.

Note.—Bracketed subsection number substituted for "(10)" by the editors to conform to ch. 76-276, Laws of Florida.

120.55 Publication.—

(1) The Department of State shall:

- (a) Conduct a systematic and continuing study of the rules of this state for the purpose of reducing their number and bulk and removing redundancies and unnecessary repetitions and make such changes in style and form as are required by paragraph (d).
- (b) Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. Rules general in form but applicable to only one school district, community col-

lege district, county, or a part thereof, or to the Florida School for the Deaf and Blind shall not be published in the Florida Administrative Code. Rules so omitted shall be filed in the Department of State, and exclusion from publication in the Florida Administrative Code shall not affect their validity or effectiveness. The department shall publish a compilation of, and index to, all rules so omitted at least annually.

(c) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

1. A summary of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by subsection 120.54(1), showing the time, place, and date of the hearings and the summaries of all rules proposed for consideration.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of paragraph 120.53(1)(d), including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

(d) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

(e) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules and insert history notes.

(f) Before making any change in any rules as provided in paragraphs (a) or (e), obtain the advice and consent of the affected agency.

(g) Make copies of the Florida Administrative Code available for sale at no more than cost and copies of the Florida Administrative Weekly [available] on an annual subscription basis for not more than \$25 per year.

(h) Charge each agency using the Florida Administrative Weekly a space rate computed to cover all costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted, at its own expense or purchase copies for distribution from the Department of State.

(3)(a) The Department of State shall furnish the Florida Administrative Code and the Florida Administrative Weekly, without charge and upon request, as follows:

1. One set to each federal and state court having jurisdiction over the residents of the state; each Florida senator, congressman, and state legislator; the Legislative Library; each state university library; the State Library; and each standing committee of

the Senate and House of Representatives.

2. Two sets to each state department.

3. Three sets to the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House.

4. Seven sets to the committee.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost, to the depository libraries of the Florida State Library, each clerk of the circuit court, and each state department, for posting for public inspection.

(4)(a) There is hereby created in the State Treasury a revolving fund to be known as the Department of State's "Publication Revolving Trust Fund."

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed \$100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has transferred to the General Revenue Fund an amount equal to all funds appropriated to the trust fund.

History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131.
*Note.—Bracketed word inserted by the editors.

120.56 Administrative determination of rule by hearing officer.—

(1) Any person substantially affected by a rule may seek an administrative determination of the [invalidity] of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(2) The petition seeking an administrative determination under this section shall be in writing and shall state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the [invalidity of the rule]. The petition shall be filed with the division which shall, immediately upon filing, forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn.

(3) Within 30 days after the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare all or part of a rule in-

valid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires or at a later date specified in the decision. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Weekly in the first available issue after the rule has become void.

(4) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The petitioner and the agency whose rule is attacked shall be adversary parties. Other substantially affected persons may join the proceedings as parties or intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

History.—s. 1, ch. 75-130, § 3, ch. 75-191, § 6, ch. 76-131.

Note.—Bracketed word substituted by the editors for the word "validity".
Note.—The bracketed words were substituted by the editors for the words, "grounds upon which the rule is alleged to be invalid, which may be stated in the alternative." The purpose of the substitution was to conform the language of this subsection to the amendment by s. 6, ch. 75-131, repealing the alternative ground for a declaration of invalidity.

120.565 Declaratory statement by agencies.—Each agency shall provide by rule the procedure for the filing and prompt disposition of petitions for declaratory statements as to the applicability of any statutory provision or of any rule or order of the agency. The agency shall give notice of each petition and its disposition in the Florida Administrative Weekly and transmit copies of each petition and its disposition to the committee. Agency disposition of petitions shall be final agency action.

History.—s. 6, ch. 75-191, § 7, ch. 76-131.

120.57 Decisions which affect substantial interests.—The provisions of this section shall apply in all proceedings in which the substantial interests of a party are determined by an agency. Unless waived by all parties, subsection (1) shall apply whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) shall apply in all other cases.

(1) **FORMAL PROCEEDINGS.**—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional and Occupational Regulation;

2. Hearings before the Industrial Relations Commission, judges of industrial claims, unemployment compensation appeals referees, and the Public Service Commission or its examiners;

3. Hearings regarding drivers' licensing pursuant to chapter 322;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by s. 1, ch. 75-130, Laws of Florida.

5. Hearings in which the division is a party, in which case an attorney assigned by the Administrative Commission shall be the hearing officer;

Hearings which involve student disciplinary

suspensions or expulsions and which are conducted by educational units; and

7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307.

(b) In cases to which this subsection is applicable, the following procedures shall apply:

1. Requests for hearings shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In hearings involving student disciplinary suspensions or expulsions conducted by educational units, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for proceedings conducted as prescribed in subsection 120.54(4) or s. 120.56, all petitions or requests for hearings under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall notify the division within 10 days of receipt of the petition or request, requesting the assignment of a hearing officer and, with the concurrence of the division, [set] the time, date, and place of the hearing. On request of any agency, the division shall assign hearing officers with due regard to the expertise required for the particular matter. Any party may request the disqualification of any hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. The record in cases governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and profiles of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under subsection 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to subsection 120.66(2); and

i. The official transcript.

6. The agency shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost.

7. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

8. The hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

9. The agency may adopt the recommended order as the agency's final order. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a recommended order, but may not increase it without a review of the complete record. In the event a court, in reversing an agency's order, finds that such agency action was done in bad faith or maliciously, the court may award attorney's fees and costs to the aggrieved prevailing party.

10. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

11. A hearing officer who is a member of an agency head may participate in the formulation of the agency's final order, provided he has completed all his duties as hearing officer.

(2) **INFORMAL PROCEEDINGS**—In cases to which subsection (1) does not apply:

(a) The agency shall proceed in accordance with its rule of procedure:

1. Give reasonable notice to affected persons or parties of the agency's action, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor;

2. Give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the agency's action or refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction;

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days;

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to subsection 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section shall not apply to agency investigations preliminary to agency action.

History.—s. 1, ch. 74-310, § 7, ch. 75-191, § 8, ch. 76-131.

*Note.—Bracketed word substituted for "setting" by the editors.

*Note.—Bracketed subsection substituted for "(3)" by the editors to conform to ch. 76-276, Laws of Florida.

120.58 Agency action; evidence, record and subpoenas.—

(1) In agency proceedings for a rule or order:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This paragraph applies only to proceedings under s. 120.57.

(b) An agency or its duly empowered presiding officer or a hearing officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas upon the written request of any party or upon its own motion, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure. However, no agency or its duly empowered presiding officer or any hearing officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legisla-

tive duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(c) Any public employee subpoenaed to appear at an agency proceeding shall be entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement, and in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(d) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(e) If a majority of those who are to render the final order have not heard the case or read the record, a decision adverse to a party other than the agency itself shall not be made until a proposed order is served upon the parties and they are given an opportunity to file exceptions and present briefs and oral arguments to those who are to render the decision. The proposed order shall contain necessary findings of fact and conclusions of law and a reference to the source of each. The proposed order shall be prepared by the individual who conducted the hearing, if available, or by one who has read the record. The parties by written stipulation may waive compliance with this paragraph.

(f) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(2) Any person subject to a subpoena or order directing discovery may, before compliance and on timely petition, request the agency having jurisdiction of the dispute to invalidate the subpoena or order on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material, but the decision of the agency on any such request shall not be proposed agency action governed by s. 120.57.

(3) Any person failing to comply with a subpoena or order directing discovery issued under the authority of this act shall be in contempt of the agency issuing the subpoena or order and subject to any penalties which the agency is authorized by law to prescribe; however, no person shall be in contempt while the subpoena or order is being challenged under subsection (2). In the absence of agency action on the default within 30 days, the party requesting the subpoena or order may bring proceedings in an appropriate court for enforcement of the subpoena or order, and a failure to comply with an order of the court shall result in a finding of contempt of court. In the absence of statutory authority for a remedy, the violator may receive a fine not to exceed \$500.

120.60 Licensing.—

(1) Unless otherwise provided by statute enacted subsequent to the effective date of this act, licensing is subject to the provisions of s. 120.57.

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Within 30 days after receipt of an application for a license, the agency shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the agency is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the license unless the agency timely notified the applicant within this 30 day period. The agency shall notify the applicant if the activity for which he seeks a license is exempt from the licensing requirement and return any tendered application fee within 30 days after receipt of the original application or within 10 days after receipt of the timely requested additional information or correction of errors or omissions. Every application for license shall be approved or denied within 90 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for a license not approved or denied within the 90-day period or within 15 days after conclusion of a public hearing held on the application, whichever is latest, shall be deemed approved and, subject to the satisfactory completion of an examination, if required as a prerequisite to licensure, [the license] shall be issued. The Public Service Commission, when issuing a license, and any other agency, if specifically exempted by law, shall be exempt from the time limitations within this subsection. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of same, except where issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.

(3) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency [or], in case the application is denied or the terms of the license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(4) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency has given reasonable notice by certified mail to the licensee of facts or conduct which warrant the intended action and the licensee has been given an opportunity to show that he has complied with all lawful requirements for the retention of the license.

(5) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension of a license, it shall show compliance in its order with the requirements

imposed by subsection 120.54(9) on agencies making emergency rules. Summary suspension may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(6) If the Administration Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

History.—s. 1, ch. 74-310, § 10, ch. 76-131

Note.—Bracketed word substituted for word "and"

Note.—Bracketed words inserted by the editors

Note.—Bracketed subsection substituted for "(8)" by editors to conform to ch. 76-276, Laws of Florida.

120.63 Exemption from act.—

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law; or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in subsection 120.54(1). Upon the conclusion of the hearing, the commission shall transmit to the committee a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed and shall give notice of the petition and the commission's response in the Florida Administrative Weekly.

(b) An exemption, and any alternative procedure prescribed, shall terminate 90 days following adjournment sine die of the next regular legislative session after issuance of the exemption, and it shall be renewable upon the same or similar facts no more than once. Such renewal shall terminate 90 days following adjournment sine die of the next regular legislative session following the renewal.

History.—s. 1, ch. 74-310, § 11, ch. 76-131

120.65 Hearing officers.—

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration, to be headed by a director who shall be appointed by the Administration Commission and confirmed by the senate. The division shall be exempt from the provisions of chapter 216.

(2) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding 3 years.

(3) If the division cannot furnish a division hearing officer promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.

(4) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters.

(5) By rule, the division may establish:

(a) Further qualifications for hearing officers and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of hearing officers.

(c) Procedures for the assignment of hearing officers.

(6) The division is authorized to provide hearing officers on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(7) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

History.—s. 1, ch. 74-310, § 9, ch. 75-191, § 11, ch. 76-131

120.66 Ex parte communications.—

(1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the hearing officer by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his authorized representative or counsel.

Nothing in this subsection shall apply to advisory staff members who do not testify in the proceeding or to any rulemaking proceedings under s. 120.54.

(2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received, and all oral responses made, and shall also advise all parties that such matters have been placed on the

record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the division shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any hearing officer who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed \$500 or [be subjected to] such other disciplinary action as his superiors may determine.

History.—s. 1, ch. 74-310, § 10, Oct. 15, 1974; § 12, ch. 76-1, 1.
Note.—Bracketed words substituted for "by" by the editors for clarity.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) Except in matters for which judicial review by the supreme court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. Review proceedings shall be conducted in accordance with the Florida Appellate Rules.

(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency may grant, or the reviewing court may order, a stay upon appropriate terms, but, in any event, the order shall specify the conditions upon which the stay or supersedeas is granted.

(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection (6).

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before the action was taken, if review is sought of proceedings under s. 120.56 or if there has been no proceeding under s. 120.54 or s. 120.57.

(d) When there has been no hearing prior to agency action, and the reviewing court finds that the

validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, factfinding proceeding under this act after [having] a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57 of the act, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be:

(a) Outside the range of discretion delegated to the agency by law;

(b) Inconsistent with an agency rule, an officially stated agency policy, or a prior agency practice, if deviation therefrom is not explained by the agency; or

(c) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13)(a) The reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or declare the rights, privileges, obligations, requirements, or procedures at issue between the parties, and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action

wrongfully taken or withheld

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

History.—s. 1, ch. 74-310, s. 13, ch. 76-131

Note.—Bracketed subsection number substituted for "17" to correct the cross reference for a committee amendment to SB 89.

Note.—Bracketed word substituted for "giving" by the editors.

Note.—As originally incorporated by reference, s. 120.56 included the provisions of s. 120.565 as created by s. 6, ch. 75-191, Laws of Florida.

120.72 Legislative intent; prior proceedings and rules; exception.—

(1) The intent of the legislature in enacting this complete revision of chapter 120, Florida Statutes, is to make uniform the rulemaking and adjudicative procedures used by the administrative agencies of this state. To that end, it is the express intent of the legislature that the provisions of this act shall replace all other provisions in the Florida Statutes, 1973, relating to rulemaking, agency orders, administrative adjudication, or judicial review [of administrative action], except for marketing orders adopted pursuant to chapters 573 and 601.

(2)(a) All administrative adjudicative proceedings conducted pursuant to any provision of the Florida Statutes which were begun prior to January 1, 1975, shall be continued to a conclusion, including judicial review, under the provisions of the Florida Statutes, 1973, except that administrative adjudicative proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency conducting the proceeding, be conducted in accordance with the provisions of this act as nearly as is feasible.

(b) If any action seeking judicial review of an administrative adjudicative proceeding begun prior to January 1, 1975, has been dismissed or otherwise disposed of on the ground that the provisions of the Florida Statutes, 1973, providing for judicial review were repealed by chapter 74-310, Laws of Florida, such action shall be reinstated by order of the court dismissing such action upon the filing of a petition by the dismissed party at any time during the 60-day period immediately following June 20, 1976.

(3) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(4)(a) All prior rules not adopted following a public hearing as provided by statute shall be void and unenforceable after October 1, 1975, and shall be stricken from the files of the Department of State and from the files of the adopting agency.

(b) [Any rule] in effect on, or filed with the Department of State prior to, January 1, 1975, except those adopted following a public hearing as provided by statute, shall be forthwith reviewed by the agency

concerned on the written request of a person substantially affected by the rule involved and this provision. The agency concerned shall initiate the rulemaking procedures provided by this act within 90 days after receiving such written request. If the agency concerned fails to initiate the rulemaking procedures within 90 days, the operation of the rule shall be suspended. This provision shall control s. 120.54⁽⁵⁾.

(c) All existing rules shall be indexed by January 1, 1975.

History.—s. 3, ch. 74-310, s. 1, ch. 76-2.

Note.—Bracketed words inserted by editors for clarity.

Note.—Bracketed words substituted for words "All rules" by the editors.

Note.—Bracketed subsection substituted for "14" by the editors to conform to ch. 76-276, Laws of Florida.

CHAPTER 121

FLORIDA RETIREMENT SYSTEM

121.021 Definitions.

121.052 Membership class of certain elected state officers.

121.081 Past service; prior service; contributions.

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(1) The masculine pronoun whenever used in this chapter shall include the feminine.

(2) "Existing systems" means the State and County Officers and Employees' Retirement System, the retirement system for school teachers, and the highway patrol pensions and pension trust fund, which are consolidated in s. 121.011(2). On and after July 1, 1972, the term "existing systems" shall also include the retirement system for justices and judges established by chapter 123 and as consolidated with the Florida Retirement System in s. 121.046.

(3) "System" means the general retirement system established by this chapter to be known and cited as the "Florida Retirement System."

(4) "Division" means the Division of Retirement of the Department of Administration.

(5) "Administrator" means the director of the Division of Retirement.

(6) "Actuary" or "state retirement actuary" means a fellow of the Society of Actuaries or a member of the American Academy of Actuaries or an organization of which one or more members is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries or both.

(7) "City" means any municipality duly incorporated under the laws of the state, if such municipality is eligible to participate under chapter 210 (tax on cigarettes).

(8) "Unit" means any department, division, or subdivision of a city or any classification of city employees approved for social security coverage, as such, by the United States Department of Health, Education and Welfare, not based on age, sex, or other classification resulting in higher than average costs for retirement benefits.

STATE OF FLORIDA
DRINKING WATER EMERGENCY PLAN

TABLE OF CONTENTS

INTRODUCTION

- I. GENERAL
- II. FEDERAL REQUIREMENTS (PL93-523)
- III. FLORIDA SAFE DRINKING WATER ACT

FLORIDA EMERGENCY/DISASTER PROGRAM

- I. SYSTEMS APPLICABLE
- II. REQUIREMENTS FOR ALL APPLICABLE SYSTEMS
 - A. Preparation of An Emergency/Disaster Plan
 - 1. Vulnerability Assessment
 - 2. Emergency Operations Planning
 - 3. Security
 - B. Proper Emergency Actions
 - 1. Precautionary Actions
 - 2. Twenty-four Hours Prior to Emergency Warnings
 - 3. During Emergency Situations
 - 4. After Emergency Situations
- III. DER FUNCTIONS
 - A. Establishment of Organization Staff and Responsibilities
 - 1. Responsibilities of the Administrator of the Drinking Water Section
 - 2. The District, Subdistrict, and Branch Offices
 - B. Coordination Plan with Division of Disaster Preparedness
 - 1. DER Districts
 - 2. DER State Disaster Coordinator
 - 3. DER Drinking Water Section
 - 4. DER, DDP Meetings
 - C. Flow Chart of Statewide Drinking Water Emergency/Disaster Operations
 - D. Florida State Emergency Drinking Water Training Program
 - 1. Introduction
 - 2. State Training Program

INTRODUCTION

I. GENERAL:

The management of safe drinking water program is a complex operation directed toward guaranteeing a continuous, uninterrupted supply of high-quality water with sufficient quantity under any and all circumstances. Nevertheless, it should be recognized that disruptions in water supply do occur and quality impairment has been recorded during normal or disaster conditions.

This program is concerned with natural and man-made disasters and is intended to provide emergency safe drinking water to the citizens of Florida under these disaster circumstances.

Hurricanes, tornadoes, floods, as well as man-made disasters such as nuclear blasts and civil disorders may take place in the State of Florida. The particular disaster a water utility faces depends, of course, on its geographic location. The common problems water utilities suffer are usually equipment breakdown, leaking or disrupted pipes, and variations in source water quality and quantity. This program not only covers the protective measures during disaster situations, but also will provide guidance in Emergency Operations Planning, and for future training needs.

II. FEDERAL REQUIREMENTS (PL-93-523)

In order for the State of Florida to be qualified for primary enforcement responsibility, Section 1413(b) (5) states that:

The state must have adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

III. FLORIDA SAFE DRINKING WATER ACT:

Section 7, and Section 403.856 Florida Statutes, is created to read:

403.856 Plan for emergency provision of water. The Department of Environmental Regulation shall adopt an adequate plan, after consultation with the Department of Health and Rehabilitative Services, for the provision of safe drinking water under emergency circumstances. When, in the judgment of the DER, emergency circumstances exist in the state with respect to a need for safe drinking water, it may issue such a rule or order as it may deem necessary in order to provide such water where it would not otherwise be available.

Also under Section 6, Section 403.855 of Florida Statutes, the DER may take actions that include, but are not limited to:

- (1) Adopting emergency rules pursuant to Section 120.54(9).
- (2) Issuing such corrective orders as may be necessary to protect the health of persons who are or may be users of such systems, including travelers.

FLORIDA EMERGENCY/DISASTER PROGRAM

I. SYSTEMS COVERED

- A. All community systems.
- B. Non-community systems which include schools, universities, hospitals, municipal or international airports, and industrial plants having 500 or more employees.

II. REQUIREMENTS FOR ALL COVERED SYSTEMS:

A. Preparation of An Emergency/Disaster Plan

The plan shall include, but is not limited to, the following contents;

1. Vulnerability Assessment:

The vulnerability analysis of the water supply system is the determination (or estimation) of the degree to which the system may be affected adversely, in relation to its responsibility, by stress situations.

The vulnerability analysis can be made only in terms of a specific anticipated disaster imposed upon a given water supply system. By performing the analysis for several possible disaster conditions, and then comparing the results of the various analysis, certain key components (most vulnerable) of the system can be identified. A rational approach to a vulnerability analysis includes the following steps:

(1) Water Supply Systems Components Description:

Components can be described adequately only in relation to a given water supply system. A listing of components must be in a comprehensive fashion.

Key elements of the total system should be listed and described as components under headings of source, collection works, transmission systems, treatment facilities, distribution system, personnel, power, materials and supplies, and communications. Then their subsequent relationship to the design disaster characteristics must be determined.

It must be emphasized that physical damage to individual components is insufficient for vulnerability analysis since these may be nondependent components. It is very important that the interrelationship of the components be recognized in assigning what would turn out to be a priority of the more critical components of the system for the design disaster conditions.

(2) Disaster Characteristics to a Given Utility:

A general review of the type of disasters based upon historical, local, or regional judgement should be considered in relation to a given water utility. However, because of the geographical characteristics of the State of Florida, hurricane, flood, and tornado, should be emphasized more than earthquake, or tsunami type of disasters. Nevertheless, civil disturbance as well as nuclear warfare must always be considered as probable and proper attention must be given.

Work sheets described in the following example may be developed for various type of disaster situations:

<u>COMPONENT</u>	<u>EFFECTS OF DISASTER</u>			<u>CORRECTIVE MEASURES</u>
	<u>NONE</u>	<u>PARTIAL</u>	<u>TOTAL</u>	<u>TYPE & EXTENT</u>
Source				
Collection Works				
Transmission System				
Treatment Facilities				
Storage				
Distribution System				
Personnel				
Power				
Materials & Supplies				
Communications				
Emergency Plans				

(3) Delineation of Magnitude of Disaster Conditions and Evaluation of Possible Impacts:

The magnitude of the emergency situations may be delineated by some reasonable scaling technique. The severness of possible impacts can then be evaluated. The effects of hurricanes, tornadoes, floods, nuclear blasts may all be properly assessed by using this method. The following is an example on the magnitude of hurricane storms:*

SCALEMAGNITUDE

0	Winds: Less than 74 mph Storm Surge: less than 4 ft above normal
1	Winds: 74-95 mph Storm Surge: 4-5 ft. above normal
2	Winds: 96-110 mph Storm Surge: 6-8 ft. above normal
3	Winds: 111-130 mph Storm Surge: 9-12 ft. above normal
4	Winds: 131-155 mph Storm Surge: 13-18 ft. above normal
5	Winds: more than 155 mph Storm Surge: more than 18 ft. above normal

*Taken from "City of St. Petersburg Emergency Disaster Plan"
April, 1975

After proper scales of magnitude are delineated, proper assessment on the possible effects then can be evaluated or estimated.

(4) Water Requirements Under Disaster Conditions:

Water requirements under disaster conditions can only be estimated in terms of the nature and magnitude of the disaster and the capabilities of the system itself.

In most disaster cases, fire is imminent, mobility is restricted, water mains may be broken, water may be contaminated, confusion and panic may arise. Therefore, the prime considerations for the water utility are: (I) to provide water for fire fighting; (II) to prevent unnecessary loss of stored treated water; (III) to develop and maintain adequate amount of potable water; and (IV) to restore the entire system as soon as possible. The public must be informed periodically of the availability of potable water as appropriate.

It is desirable that a plot of the anticipated water demand under the various circumstances be constructed in relation to the disaster situation and probable subsequent events.

(5) FUNCTIONAL OPERATIONS:

The capability of a water system in meeting the anticipated demand during and following the design disaster can be evaluated by superimposing a curve upon the demand plot.

A normal fluctuation of water demand against time prior to the onset of the disaster can be developed. Depending on the types of disaster, certain adverse effects will be witnessed. Assuming a nuclear blast

of medium magnitude, a number of water mains and lines are broken and significant fire fighting is needed so the reservoirs would be depleted rapidly. Assuming further that workmen were unable to enter the center of disaster area to valve off broken mains and that the fire fighting requirement continued, it is likely that the reservoirs would be emptied and thus the water supply system would not be able to meet the demand under such emergency conditions, hence a deficiency has occurred. The demand for water of the community would have to be met by importation of water from other sources. In the worst case, it just simply could not be met. Eventually restoration of capability would meet the community demand although this would probably take considerable time. The demand curve against the supply under all emergency phases as described above should be constructed.

(6) Identification of Critical Components:

By reviewing the preceding analysis and itemizing those components that are partially or totally incapacitated by the disaster, the components that are interrelated with other components so as to make the entire system inoperative can be identified. These are the most valuable components.

In the more complicated system, more than one combination of components may enable the system to meet the demands. That combination of components that would cost the least to meet the anticipated water demand becomes the least-cost solution, and by definition, the "critical components."

A reiteration of this process of assuming various disasters, constructing anticipated demand curves, determining measures required to meet demand, and subsequently identifying critical components eventually will isolate the most critical components in the entire water supply system. These components are the ones of particular interest in pre-disaster protective measures.

(7) Emergency Operations Planning:

An emergency operations plan is not "organizationally oriented", with the description of responsibilities, functions, and duties to be carried out by rank and file in a pattern resembling an organization chart. However, such an organizational description of functions and responsibilities is an important prerequisite to successful operations. An emergency operations plan should describe the mission and methods of utilization of resources to accomplish the mission. The context of an operationally oriented plan is: If condition X occurs, the actions to be taken by manager A, Supervisor B, and/or craftsman C are _____, _____, and _____.

Briefly, an emergency operations plan may be defined simply as "Under Disaster Conditions, WHO does WHAT, WHEN, with existing resources."

The basic principles to prepare an emergency operations plan is as follows:

- (1) The plan considers only existing resources. Do not rely the success of operations upon resources hopefully to be acquired.
- (2) The plan should be as concise as possible.
- (3) The plan should not be overly detailed.

In developing the emergency operations plan, the following steps should be considered:

- (1) State assumptions of emergency caused effects.
- (2) Estimate remaining capabilities.
- (3) Estimate community requirements.
- (4) Match capabilities to requirements..
- (5) Specify priorities.
- (6) Program best way of using resources.
- (7) Assign specific tasks to assumed surviving personnel.

The following items may be considered as a guide in making and implementing an emergency operations plan:

- (1) Inventory organization, making assignments to each personnel, delineate areas of authority:
 - a. Appoint responsible personnel for plan development, training, & security.
 - b. Designate disaster organization staff and teams:
 - i. delineate areas of authority and define channels of command
 - ii. designate alternatives
 - iii. prepare alerting list with address and phone numbers
 - c. Make contact with State Emergency Operations Center (EOC), DER District Emergency Operations Officers (EOOs) DER District Potable Water Engineers (PWEs), as well as any other military authorities:
 - i. for possible help in planning.
 - ii. for information about funding or other support if available.
 - iii. to establish liasion channels.
- (2) Specify priorities of using resources:
 - a. Establish baselines on water qulaity levels.
 - b. Estimate maximum quantity of water supplies available.
 - c. Determine needs and priorities:
 - i. allocate water under assumed conditions for drinking, sanitary, decontamination, fire-fighting, and other uses.

ii. prepare guidelines for water allowances, priorities, rationing, and time-phasing of estimated water requirements.

iii. establish procedures for emergency treatment, pumping, and distribution of water.

(3) Provide Personnel Protection:

a. Establish shelter program. Aim to provide shelters for personnel at each essential operating unit.

b. Provide for radiological monitoring capability and training, shelter manager training, and personnel and family survival training.

c. Develop plan to provide test exercises to familiarize personnel with emergency procedures.

(4) Inventory Communications Equipment:

a. Study and coordinate all possible means of communications.

b. Inventory existing equipment:

i. command post and alternate.

ii. control points and alternates.

iii. assembly areas and reporting centers.

c. Redistribute, if necessary, of equipment for best command and control.

d. Inventory personnel for communications equipment experience.

e. Prepare procedures for release of information to the public via EOC or directly:

i. designate personnel to be in charge of release of information

ii. establish relations with press and radio.

iii. prepare releases in emergency conditions likely to develop.

iv. prepare emergency placards and signs in advance.

(5) Assess Protection of Plant Equipment, Inventories, and Records:

a. Determine degree of physical security protection needed and the availability of police protection.

b. Provide security procedures.

c. Inventory essential equipment, material, and supplies for recovery.

d. Provide multiplicate records.

- e. Keep records readily available at all levels of operation and maintain them up to date.
- f. Plan for mutual-aid parties informed of content and location of records.
- g. Plan for security of original legal copies of financial, business, transactions, and personnel records.

(6) Initiate mutual-aid agreements and other cooperative arrangements:

- a. Provide agreements with related utility, service, and civil defense agencies.
- b. Define and assign responsibilities.
- c. Provide for exchange or assignment of personnel, equipment, and materials.
- d. Provide for coordination of communication, training, reconnaissance and assessment, inventorying, standardization, etc.
- e. Consider legal problems.
- f. Plan to provide interconnections with adjacent systems.

(3) Security:

Special emphasis should be placed as part of emergency operations planning in the element of facility security. A full-time security director, if possible, may be appointed for police assistance coordination, liaison, and resultant court appearances. However, if the utility is not large enough so as the budget does not permit a full-time director, then some staff member(s) may be assigned this duty along with his regular duties. Briefly, a security director's duties are:

- (1) Advising management in the problems and costs of vandalism and means of combating them.
- (2) Law-enforcement liaison.
- (3) Employee security checks.
- (4) Vulnerability assessment preparation.
- (5) Handling bomb threats or other threats of vandalism.
- (6) Civil defense responsibilities.
- (7) Responsibility for issuance and control of identification cards.

In order to provide sufficient protection on the water plants, the following steps should be observed.:

- (1) All persons employed should carry identification cards.

- (2) Visiting at water plants or on water utility property should be limited to persons who have been furnished a pass, good only for a single occasion.
- (3) Critical parts of the water plants should be fenced or barred against entry of unauthorized persons.
- (4) Protective lighting should be installed at key points on the property where the other measures do not suffice.
- (5) Spare parts for critical materials and equipment should be stored at a location not affected by the same hazard as the units to which the spare parts apply.
- (6) Water department executives should cooperate with state or local police.

Furthermore, if an adequate preparedness measure is to be provided, the following items must be considered:

- (1) Active integration with the community security program.
- (2) Security director designation.
- (3) Development of a prearranged notification system.
- (4) Development of a proper identification procedure for use during emergencies.
- (5) Development of a communications system during disaster situations.
- (6) Program development of training and training exercises.
- (7) Update of all utility maps, gate-valve locations, and other essential data.
- (8) Coordination with fire department officials.
- (9) Provisions for supplying water to critical sections of the system during emergency periods.

B. PROPER EMERGENCY ACTIONS:

1. Precautionary Actions:

Each water utility system should take precautionary measures year around against any possible emergency situations as follows:

- (1) Inspect all mechanical equipments including pumping stations.
- (2) Stockpile critical parts.
- (3) Inventory auxiliary and standby equipments.
- (4) Maintain adequate supply of fuel for a minimum of 10 to 14 days.

- (5) Stock adequate supply of chlorine, hypochlorite solution, and other chemicals for a minimum of 10 to 14 days.

2... Twenty-four (24) hours prior to emergency warnings:

- (1) Fully fuel automotive, auxilliary electric power and pumping units and test their operativeness.
- (2) Check all vehicles for proper operations.
- (3) Have emergency communication equipment readied.
- (4) Secure equipment and supplies in exposed areas.
- (5) Warn and request, via news media or radio, community residents to store adequate drinking water and, if possible, store waters for other uses.
- (6) Get sufficient emergency rations, water, clothing, and bedding on station which should last at least forty-eight (48) hours.

3. During Emergency Situation:

- (1) Maintain full level of all water storage reservoirs and elevated tanks.
- (2) Maintain powers and electricity and outside communications.
- (3) Have personnels and equipment stanby for emergency repairs.
- (4) Keep close contact with DER District Emergency Operations Officers (EOOs), and Potable Water Engineers (PWEs), State Emergency Operations Center (EOC), and other appropriate agencies/personnel for proper assistance.
- (5) Keep in contact with other agencies where cooperative arrangements are in effect.

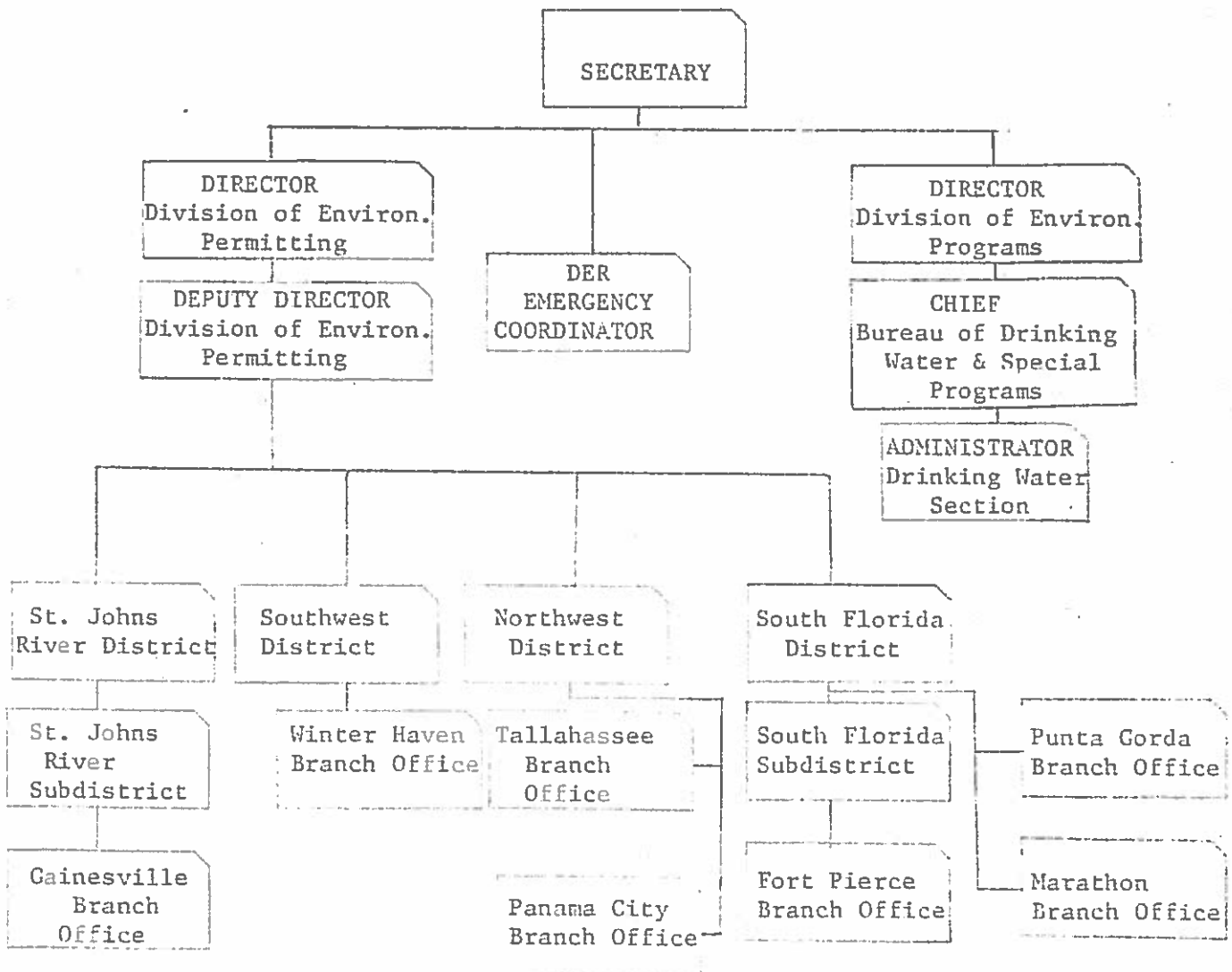
4. After Emergency Situations:

- (1) Keep DER District EOOs and PWEs as well as State EOC informed of any damages.
- (2) Survey all damages and make cost estimates for repair, and report to appropriate DER Districts.
- (3) Consult with cooperative agencies for proper technical assistance.
- (4) Prepare assessment report.

III. DER FUNCTIONS:

A. ESTABLISHMENT OF ORGANIZATION STAFF AND RESPONSIBILITIES.

The following is the Department of Environmental Regulation Organizational Chart for emergency measures.



1. Responsibilities of the Administrator of the Drinking Water Section:

- (1) Providing technical assistance and support before, during, and after emergency situations.
- (2) Providing training in program implementation and personnel.
- (3) Evaluating damage assessments.
- (4) Serving as contact man during emergency situations.
- (5) Preparing long-range planning.
- (6) Assisting in DER training programs.

2. The District, Subdistrict, and Branch Offices are responsible for:

- (1) Providing EOOs (attached list)
- (2) Providing PWEs (attached list)
- (3) Coordinate with water utilities to make sure proper protective measures are taken before emergency situations.
- (4) Keep close contact with water utilities during emergencies and report to DER headquarters in Tallahassee.
- (5) Keep close coordination with State EOC as well as appropriate Regional offices of the Division of Disaster Preparedness.
- (6) Providing technical assistance and/or advice to water utilities during and after emergencies.
- (7) Coordinate with water utilities for damage investigations after emergencies.
- (8) Check and assure that the water quality meets standards before returning to services by damaged utilities.
- (9) Assist water utilities in preparation of assessment statements and report to DER headquarter for proper actions.

B. COORDINATION PLAN WITH DIVISION OF DISASTER PREPAREDNESS.

1. All DER District EOCs should coordinate with appropriate DDP Area Officers. (see map) It is recommended that DER EOOs be familiar with DDP's warning and protection procedures.

The following contact points are established based upon the areas where DDP Area Offices and DER District Offices have common jurisdiction:

DER DISTRICT

NW District (including
Tallahassee & Panama
City Branch Offices)

St. Johns River Sub-
District (including
Gainesville Branch
Office)

St. Johns River
District

Southwest District
(including Winter Haven
Branch Office)*

South Florida District
(including SF Subdis-
trict, Fort Pierce, Punta
Gorda, and Marathon Branch
Offices)**

DDP AREA OFFICE

WEFA
Walton County Courthouse
DeFuniak Springs, FL 32435
904/892-3196

NOFA
830 Edwards Road
Starke, FL 32091
904/964-5305

CEFA
P.O. Box 207
Wildwood, FL 32785
904/748-1616

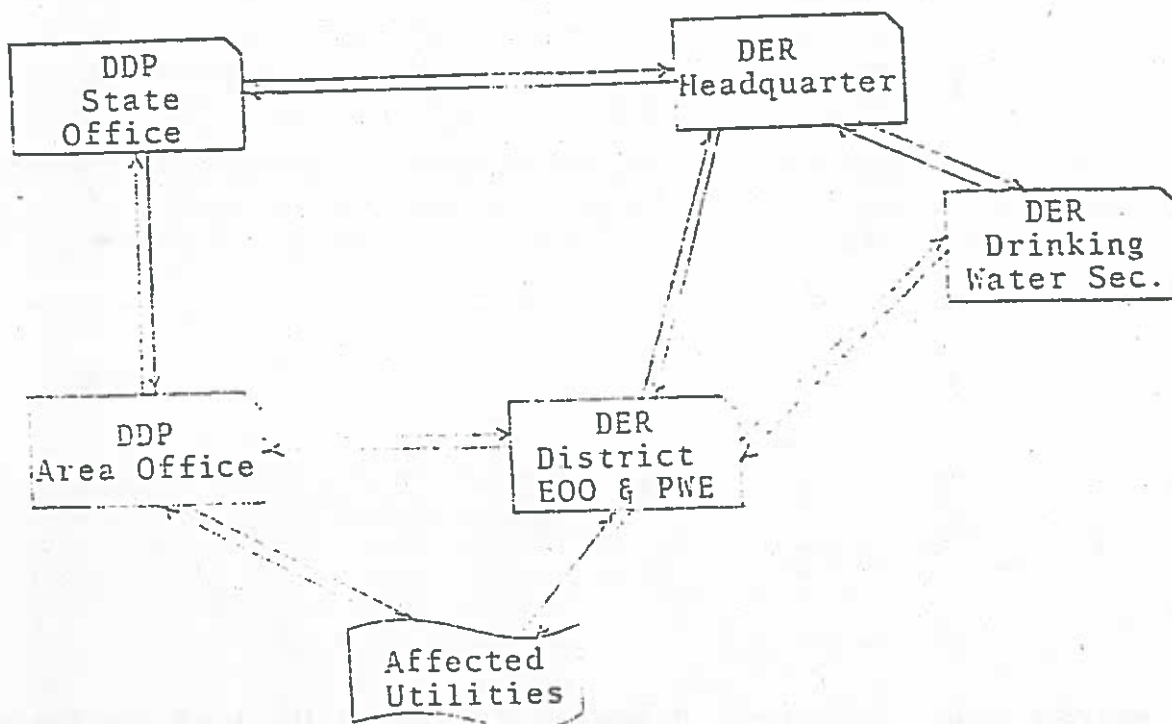
CEFA
P.O. Box 207
Wildwood, FL 32785
904/748-1616

SOFA
P.O. Box 1058
Jupiter, FL 33458
505/746-4586

*For Sarasota, De Soto, & part of Marion County, contact SOFA
**For Osceola and part of Polk County, contact CEFA

2. DER State Disaster Coordinator should get in touch with DDP's Bureau of Communication & Warning about their warning systems and pass on the information to DER District EOOs.
3. DER Drinking Water Section, through coordination with DDP's Disaster Research & Planning Office, will pass on information such as DDP Policy and Procedures on natural and man-made disasters to DER District EOOs and PWEs.
4. Meetings between DER and DDP shall be held periodically to inform each other for any revision or update of their policy and procedures.

C. FLOW CHART OF STATEWIDE DRINKING WATER EMERGENCY/DISASTER OPERATIONS.



D. FLORIDA STATE EMERGENCY DRINKING WATER TRAINING PROGRAM.

1. Introduction:

A training program must have a purpose, supporting materials, proper instructors, and, most of all, appropriately selected trainee personnel. It is apparent that without properly trained personnel, emergency/disaster situations cannot be dealt with effectively. Therefore, damages may exceed normal or expected levels. The following table may describe the personnel requirements for an emergency training program:*

	Management	Engineering	Operators	Chemists	Maintenance (plant)	Maintenance (field)	Police or security	Radio-logical Monitor
ulnerability analysis		X	X					
Protective Design		X						
ility Liaison	X						X	
curity	X						X	
ard Assessment		X		X				X
rsonnel Safety	X						X	X
ergency Operation	X	X	X	X	X	X		
ergency Repairs		X			X	X		

*Taken from "Emergency Planning for Water Utility Management",
AWWA Manual #M19

In order to insure an effective training program, the following elements must be considered:

- (1) The determination of the availability and quality of training courses and instructors.
- (2) Review on all existing utility personnel and evaluation of those skills already housed in the facility.
- (3) Training exercise.
- (4) Update of ongoing training program and previously trained staff and the introduction of new staff to the program.

2. State Training Program:

Based upon the above criteria, the following program is developed/recommended:

- (1) With the cooperation and support of AWWA, and through cooperative agreement with TREEO Center of the University of Florida, and DER's training & Certificate Section, Regional workshops shall be conducted to train utility managers, engineers, operators, and other personnel for emergency plan preparation and development, protective design, emergency operations and repairs, as well as hazard and damage assessment report. Once every two (2) years there should be an update workshop to refresh the water utility

personnel on the latest development.

- (2) Movies, slide shows may be given to general public and utility personnel periodically in order to bring to their attention.
- (3) Emergency exercise will be conducted statewide, regionally, or locally. Water utilities are encouraged to conduct their own exercises when possible.
- (4) Close coordination with DDP will be done to insure there is no discrepancy on policy and procedures between DER and DDP.

